SENATE DOCKET, NO. 1463 FILED ON: 1/20/2017

SENATE . . . . . No. 1348

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the use of unmanned aerial systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Michael O. Moore	*Second Worcester*	
Keiko M. Orrall	*12th Bristol*	*2/3/2017*
James B. Eldridge	*Middlesex and Worcester*	*2/6/2017*

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SENATE . . . . . No. 1348

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1348) of Michael O. Moore, Keiko M. Orrall and James B. Eldridge for legislation relative to the use of unmanned aerial systems. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to the use of unmanned aerial systems.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 272 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after section 99B the following section:—

Section 99C.

(a) As used in this section, the following words shall have the following meanings:—

"Unmanned aerial vehicle", an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

"critical infrastructure facility", a facility that is owned or leased for one of the following purposes:

(i) a petroleum or chemical production, transportation, storage or processing facility

(ii) a chemical, polymer or rubber manufacturing facility

(iii) a water or wastewater treatment facility and water distribution or conveyance system

(iv) a power generating station plant or substation

(v) a federal or state military installation or facility

(vi) a natural gas compressor station

(vii) wireless telecommunications infrastructure

(viii) a facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program

(b) Any use of an unmanned aerial vehicle shall fully comply with all Federal Aviation Administration requirements and guidelines. Unmanned aerial vehicles may not be equipped with weapons. The acquisition, purchase, or procurement of unmanned aerial vehicles shall be authorized, in the case of a unit of state or county government, by the Secretary of Public Safety, or, in the case of a municipality, by the city council or other governing body, subject to approval by the Secretary of Public Safety. No person shall knowingly operate an unmanned aircraft over a critical infrastructure facility if the unmanned aerial vehicle is less than 400 feet above ground level, or come within a distance of a critical infrastructure facility that interferes with the operations of the facility.

(c) It is unlawful for a government entity or official to operate an unmanned aerial vehicle except as follows—

(1) in order to execute a warrant issued under section 2 of chapter 276.

(2) for purposes unrelated to criminal investigation or other law enforcement purposes, provided that information derived from such operation shall not be received in evidence in any criminal trial, hearing, or grand jury proceeding, or maintained, shared, or used for any intelligence purpose.

(3) in case of emergency when there is reasonable cause to believe that a threat to the life or safety of a person is imminent, subject to the following limitations:

i. the operator shall document the factual basis for the emergency; and

ii. not later than 48 hours after the unmanned aerial vehicle is initially deployed, a supervisory official shall file an affidavit describing the grounds for the emergency access.

(d) The lawful operation of unmanned aerial vehicles described in subsection (b) and the disclosure of information acquired by the operation of such vehicles shall be subject to the following limitations:

(1) When operated pursuant to a warrant, unmanned aerial vehicles shall collect data only on the warrant subject and avoid data collection on individuals, homes, and areas other than the warrant subject.

(2) Facial recognition and other biometric matching technology shall not be used on data collected by an unmanned aerial vehicle, except to identify the subject of a warrant.

(3) Under no circumstances shall unmanned aerial vehicles be used to track, collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership or other

entity unless such information relates directly to investigation of criminal activity, and there are reasonable grounds to suspect the subject of the information is involved in criminal conduct.

(e) Data collected on an individual, home, or area other than the target that justified deployment shall not be used, stored, copied, transmitted, or disclosed for any purpose, except with the written consent of the data subject. Such data shall be deleted as soon as practical, and in no event later than 24 hours after collection.

(f) Information acquired by government use of an unmanned aerial vehicle and information derived therefrom shall not be received in evidence in any judicial, regulatory, or other government proceeding if:

(1) the use of the unmanned aerial vehicle was unlawful;

(2) the unmanned aerial vehicle was used for an unlawful purpose or in an unlawful manner; or

(3) the disclosure would be in violation of the data retention limits in subsection (e).

(g) A government office or public official may include in its application for a warrant a request for an order delaying the notification required under subsection (g) for a period not to exceed 90 days, and the court shall issue the order if it determines there is reason to believe that notification of the existence of the warrant may have an adverse result as defined in section 1B of chapter 276. Upon expiration of any period of delay granted under this subsection, the government office or public official shall provide the warrant subject a copy of the warrant together with notice required under, and by the means described in, subsection (h).

(h) Not later than seven days after information is collected by an unmanned aerial vehicle pursuant to subsection (c)(1) of this section, the government entity or official shall serve upon, or deliver by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective as specified by the court issuing the warrant to the subject of the warrant a copy of the warrant, a copy of the application for the warrant, and notice that informs such individual:—

(1) of the nature of the law enforcement inquiry with reasonable specificity;

(2) that information regarding the warrant subject was collected, the dates on which the information was collected, and a description of that information;

(3) whether notification was delayed pursuant to subsection (h); and

(4) the judicial official authorizing any delay in notification.

(i) On the second Friday of January of each calendar year, any judge issuing or denying a warrant under subsection (c)(1) during the preceding calendar year shall report on each such warrant to the office of court management within the trial court:

(1) the fact that the warrant was applied for;

(2) the identity of the government entity or official making the application;

(3) the offense specified in the warrant or application therefor;

(4) the place where the information was to be obtained;

(5) the fact that the warrant was granted as applied for, was modified, or was denied; and

(6) the number and duration of any extensions of the warrant.

In June of each year, beginning in 2013, the court administrator in the office of court management within the trial court shall transmit to the legislature a full and complete report concerning the number of applications for warrants authorizing the use of unmanned aerial vehicles pursuant to subsection (c)(1) of this section. Such reports shall include a summary and analysis of the data required to be filed with that office. Such reports shall be filed with the offices of the clerk of the house and the senate and shall be public records. The court administrator in the office of court management within the trial court shall issue guidance regarding the form of such reports.

Section 2. Section 65 of Chapter 131 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by adding, in line 3, after the word “helicopter” the following words:-

“or unmanned aerial vehicle,”