

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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**Action:** Do Pass  
**Vote:** 8 - 1 - 0  
**Yeas:** Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker  
**Nays:** Barton  
**Exc.:** 0  
**Prepared By:** Bill Taylor, Counsel  
**Meeting Dates:** 4/2, 4/9

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**WHAT THE MEASURE DOES:** Allows law enforcement agency to use a drone for the purposes of surveillance of a person only if: (1) court has issued a warrant for its use; or (2) drone is used within a geographically confined, time-limited emergency in which there is risk or serious physical harm to an individual, and the drone is thoroughly documented by the law enforcement agency. Prohibits law enforcement agency from using drone to intercept conversation. Limits the information law enforcement may collect on targeted individual. Requires all images obtained must be destroyed after 30 days unless evidence is needed in criminal prosecution. Prohibits law enforcement agency from possessing a drone capable of firing a bullet or other projectile. Requires public bodies with drones to establish training requirements, list the criteria for which a drone can be used, a description of the area where it will be used and the procedure for informing the public of its intended use of the drone.

**ISSUES DISCUSSED:**

- Right to privacy
- Technology

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** A “drone” is basically an airplane or helicopter without a pilot on board that is operated by someone who may be many thousands of miles away or a few hundred feet away. A ‘drone may be an “unmanned aerial vehicle” licensed by the Federal Aviation Authority (FAA) or a hobby craft purchased at the local store. The former probably is very technologically sophisticated; the latter less so. The former must be registered with the FAA, the latter need not be. Both are capable of carrying cameras and other electronic devices.

The Federal Aviation Authority Reauthorization Act passed by Congress in February 2012 provides funds so that the FAA can speed up the regulatory process for opening up American airspace to drones by 2015. The FAA has estimates that 10,000 drones will be operating in US by 2015 and 30,000 within 20 years. (*Dayton Daily News*, June 23, 2012.) This rapid expansion of the use of “drones” in the US is based on economics. “Drones” are 1/20th the cost of manned aircraft and can stay airborne considerably longer. (*Drones and the Boundaries of the Battlefield*, 47 Texas International Law Journal, p.293 at 297 92011-2012).

The United States has complete exclusive national sovereignty in the “navigable” airspace of this country. (49 U.S.C. 40103; *U.S v. Causby*; *City of Burbank v. Lockheed Air Terminal* 411 U.S. 624 (1973) A citizen of the United States has a right of freedom of transit in air commerce through the navigable air space of the United States (49 U.S.C. section 40103). “Navigable airspace” means airspace above the minimum altitudes of flight prescribed by regulations of the Department of Transportation including airspace needed to ensure safety in the takeoff and landing of aircraft (49 U.S.C. 40102(a)(32). Generally speaking, this is the airspace 400 feet and above but can be considerably less particularly as it relates to airport flight paths. (See *Florida v. Riley*, concurring opinion Justice O’Connor, 488 U.S. 445 (1989). However, this does not mean that Oregon cannot regulate the use of drones by Oregon law enforcement and cannot prohibit the use of evidence obtained by a drone.

4/11/2013 11:12:00 AM

***This summary has not been adopted or officially endorsed by action of the committee.***