

**Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2016 Regular Session**

Part I: Measure Information

Bill Request #: 840

Bill #: SB 281

Bill Subject/Title: AN ACT relating to the use of drones.

Sponsor: Senator Ernie L. Harris

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Loca Loaw Enforcement and Jails

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

SB 281 defines “critical infrastructure” as:

- any part of a system used in generation and distribution of electricity;
- A petroleum refinery;
- A chemical or rubber manufacturing facility;
- A petroleum or chemical storage facility;
- Pipelines and related facilities identified in the National Pipeline Mapping System
- Railroad yards, railroad bridges, and railroad tunnel ports; or
- A drinking water collection, treatment, storage, or distribution facility.

SB 281 defines “drone” as any unmanned aircraft for which registration with the Federal Aviation Administration (FAA) is required and that should be labeled with an N-number or other unique identifying number issued by the FAA.

The table below details the offense and punishment for unlawful use of a drone as provided by SB 281:

| Offense Description | Level of Offense |
|---|---|
| Knowingly using a drone to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record critical infrastructure without the prior written consent of the owner of the critical infrastructure. | Class B Misdemeanor for first offense, Class A misdemeanor for second and subsequent offense. |
| Engaging in harassing conduct prohibited by KRS 525.070; | Class B Misdemeanor |
| Committing an act of voyeurism prohibited by KRS 531.090 | Class B Misdemeanor |
| Committing an act of video voyeurism prohibited by KRS 531.100 | Class B Misdemeanor |
| Using a drone while committing an act of burglary or trespassing prohibited by KRS Chapter 511 | Class B Misdemeanor |
| Arming a drone with a lethal payload, except for drones operated by the military. | Class A Misdemeanor |

SB 281 provides specific exemptions to the offenses detailed above. Those are:

- A drone used by the owner or lessee of the critical infrastructure, or a third party authorized by the owner or lessee to collect information about the infrastructure;
- A drone used by the federal or state government, or a person acting pursuant to a contract with the federal or state government to conduct surveillance;
- A drone used to examine or record real property when the drone is used by the owner, a person granted the right by the owner of the real property, or a third party retained or authorized by the owner;
- A drone used by authorization of the Kentucky Division of Emergency Management;
- A drone used by law enforcement agency, emergency medical service agency, hazardous response team, disaster management agency, or other emergency management agency for the purpose of incident command, area reconnaissance, personnel and equipment deployment monitoring, training, or a related purpose;
- A satellite orbiting the earth;
- A drone used by an insurance company or a person acting on behalf of an insurance company for purposes of underwriting an insurance risk or investigating damage to insured property;
- A drone used by court order, or in accordance with a search warrant;

- A drone used by an institute of higher education for educational, research, or testing purposes.

SB 281 establishes the “Citizens’ Freedom from Unwarranted Surveillance Act” which provides:

- A law enforcement agency must first obtain a search warrant naming a particular person or location as the subject of the surveillance;
- “Exigent circumstances” must exist if a search warrant is not attainable;
- Operation of a drone shall be in a manner as to minimize peripheral surveillance on adjacent property and nontarget individuals. Neither facial recognition nor biometric matching technology may be used on nontarget data. Data collected by a done is confidential and may be disclosed only by court order;
- No evidence collected by a drone shall be admissible in any civil, criminal, or administrative proceeding except for evidence collected by law enforcement or evidence offered against the owner or operator of a done to show misconduct.
- No law enforcement agency shall be required to operate drones;

SB 281 requires the Kentucky Office of Homeland Security to promulgate administrative regulation for the control of drones on, over, and across state-owned property.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

A person convicted of a Class B misdemeanor may be incarcerated for up to 90 days. A person convicted of a Class A misdemeanor may be incarcerated for up to one year. Misdemeanants are housed in one of Kentucky’s 78 full service jails or five life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.92 per day. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.92 per day.

By August 2015, 26 states had enacted drone-related privacy laws, and all but a handful of states had at least considered such laws. Nationwide in 2009, only 146 government agencies nationwide had received permission from the Federal Aviation Administration to use unmanned aircraft systems. Those agencies included law enforcement, firefighting, border patrol, military training, disaster relief, and search and rescue. In 2011, the number grew to 313; in 2013, the number grew to 423; and in 2014, the number stood at 609.¹⁻²

Data Source(s): 1. "Drones a Benefit for Law Enforcement, but Raise Concerns." The Philadelphia Inquirer. August 10, 2015;
2. "Drones over U.S. Get OK by Congress." The Washington Times. February 7, 2012
Department of Corrections

Preparer: Wendell F. Butler **Reviewer:** JWN **Date:** 3/9/16