



Director's Office

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November 5, 2018

Mr. Rick Combs, Director
Legislative Council Bureau
401 S. Carson Street
Carson City, Nevada 89701

Re: Report to the Legislature on the Department of Public Safety implementation of Assembly Bill 239 (78th Session)

Director Combs,

1) Background: Assembly Bill 239 (AB239) passed and was signed during the 78th Legislative Session. (See "AB239," attached). A complete overview of AB239 is provided below. Section 22, paragraph 3 of this bill requires the following:

The [Department of Public Safety] shall, on or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in this State.

This memorandum is intended to fulfill the Department of Public Safety's ("Department") requirements for this report in AB239.

2) Legal Overview of AB239: AB239 deals with use of Unmanned Aerial Vehicles (UAV), particularly with respect to public entities. A summary of the major sections and provisions of the bill follows:

- **Section 18, WEAPONIZING:** Prohibits a person from weaponizing a UAV or discharging the UAV weapon and establishes that a violation would be a felony.
- **Section 18.5, CRITICAL FACILITIES:** Prohibits a person from operating UAV within certain distances of critical facilities or an airport except under certain circumstances where the operator obtains consent from the owner of the critical facility, from the airport authority, or the Federal Aviation Administration.

- **Section 19, TRESPASS:** Authorizes a real property owner or lawful occupier of real property to bring an action for trespass against the owner or operator of a UAV when a UAV is within a certain horizontal and vertical distance of the property.
- **Section 20, LAW ENFORCEMENT:** Prohibits a law enforcement agency from using a UAV for the purposes of collecting evidence, where a person has a reasonable expectation of privacy, without a warrant, authorizes law enforcement to use UAV for certain purposes, including:
 - Exigent circumstances with probable cause to believe that a person has committed, is committing or is about to commit a crime;
 - Consent in writing;
 - Search and Rescue operations;
 - Imminent threat to exist to the life and safety; and,
 - Declaration of Emergency by Governor (within geographic area covered in declaration).
- **Section 21, PUBLIC AGENCIES:** Authorizes a public agency to use a UAV, if it is registered with the Department and it is operated in accordance with the regulations adopted by the Department. Section 21 also prohibits a public agency from using a UAV, if it is operated to assist law enforcement or to conduct a criminal prosecution, and prohibits photographs/images/recording obtained in violation of this section is inadmissible in judicial, administrative or other adjudicatory proceedings and cannot be used to establish reasonable suspicion.
- **Section 22, REGISTRATION:** Requires that the Department, to the extent that money is available, establish and maintain a registry for UAVs that are operated by public agencies, and further requires that the Department adopt regulations prescribing the purposes for which a public agency may use a UAV that is registered with the Department, including but not limited to:
 - Fire Services;
 - Emergency Medical Services;
 - Protection of Critical Facilities that are public property; and,
 - Search and Rescue Operations.

3) Department Implementation: In addition to providing this report, the Department is required to implement two portions of AB239. First, it must develop a registry for public UAVs. Second, it requires the Department to adopt regulations for the use of UAVs by public entities. Since the passage of AB239, the Department delegated these functions to its Division of Emergency Management (DEM), which carried out these requirements as outlined below:

Registry: Section 21 of AB239 requires that public agencies register their UAV with the Department. Following the development of the registry, the Department has reached out to statewide partners to inform them of the registration requirement, how to obtain the online registration, and what is necessary to complete the registration process. Additionally, the Department has also reached out to registrants to ensure that the information reflected in the registry is up to date and complete as described below:

1. Initial email dated August 24, 2018 was sent by the Department to UAV operators included in the registry requesting certification that the information was

current, or to provide accurate information. Registrants were requested to respond by August 31, 2018.

2. Follow-up email dated September 19, 2018 was sent to the eight UAV Program POCs that did not respond to the August 24 request. Registrants were requested to respond by September 25, 2018.
3. Second follow-up email dated October 5, 2018 was sent to the remaining four UAV Program POCs for requested status of their UAVs and operators. Registrants were requested to respond by November 1, 2018. Additionally, the Department reached out by telephone to each of the listed POCs (with exception of Clark County Public Works who provided their new POC info).

To date, there are 56 registered UAVs operated by public agencies in the state. The registry is posted on the Department's website, and is provided here for your information. See, "*Registered UAVs.*"

Regulations: The Department has also completed the rulemaking process for the development of regulations associated with this bill. The completed regulations have been approved by the Legislative Commission, are also attached here for your information. See, "*Approved Regulations.*"

Future Implementation of AB239 by the Department of Public Safety: In addition to the completion of this report, which fulfills the requirements outlined in Section 22 of AB239, the Department will continue to implement measures associated with the passage of this bill in the following ways:

- Continuing the process of registering UAVs operated by public partners throughout the state;
- Maintaining the database of UAV owners in the public sector for public access and future reports;
- Monitoring legislation during the upcoming Legislative Session for changes to the current law; and,
- Continuing outreach to statewide partners regarding new registrations and updates to existing regulations.

Please contact me should you have any questions or require additional information.



James M. Wright
Director

Attachments

**ADOPTED REGULATION OF THE
DEPARTMENT OF PUBLIC SAFETY**

LCB File No. R016-16

Effective June 28, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, Section 22 of Assembly Bill No. 239, chapter 327, Statutes of Nevada 2015, at page 1776 (NRS 493.118).

A REGULATION relating to unmanned aerial vehicles; prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle that is registered with the Department of Public Safety; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a public agency in this State may operate an unmanned aerial vehicle only if the agency registers the unmanned aerial vehicle with the Department of Public Safety and operates the unmanned aerial vehicle in accordance with any regulations adopted by the Department. (Section 21 of Assembly Bill No. 239, chapter 327, Statutes of Nevada 2015, at page 1776 (NRS 493.115)) Existing law requires the Department to: (1) prescribe the public purposes for which a public agency may operate an unmanned aerial vehicle that is registered with the Department; (2) establish and maintain, to the extent money is available for this purpose, a registry of unmanned aerial vehicles that are operated by public agencies in this State; and (3) include on its Internet website the information contained in the registry. (Section 22 of Assembly Bill No. 239, chapter 327, Statutes of Nevada 2015, at page 1776 (NRS 493.118)) This regulation prescribes the public purposes for which a public agency may operate an unmanned aerial vehicle that is registered with the Department.

Section 1. Chapter 493 of NAC is hereby amended by adding thereto a new section to read as follows:

A public agency which has registered an unmanned aerial vehicle with the Department of Public Safety in accordance with section 22 of Assembly Bill No. 239, chapter 327, Statutes of Nevada 2015, at page 1776 (NRS 493.118), may operate the unmanned aerial vehicle for one or more of the following public purposes:

1. *Fire services;*
2. *Emergency medical services;*
3. *Protection of a critical facility that is public property;*
4. *Search and rescue operations;*
5. *Preparation for, response to and recovery from emergencies and disasters;*
6. *Communications relay and delivery;*
7. *Surveying and mapping;*
8. *Inspection of public land and infrastructure;*
9. *Inspection and testing of hazardous materials;*
10. *Inspection and evaluation of natural resources;*
11. *Inspection and evaluation of wildlife;*
12. *Inspection and evaluation of agricultural and environmental conditions;*
13. *Training of employees of a public agency;*
14. *Research and development of unmanned aerial vehicles;*
15. *Maintenance and testing of unmanned aerial vehicles;*
16. *Air quality testing; and*
17. *Evaluation of meteorological conditions.*