

# Legislative Analysis

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## AMEND UNMANNED AIRCRAFT SYSTEMS ACT

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5494 (proposed H-1 substitute)**

**House Bill 5496 (as introduced)**

**Sponsor: Rep. Michele Hoytenga**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 5495 (proposed H-1 substitute)**

**Sponsor: Rep. Roger Hauck**

**House Bill 5497 (proposed H-1 substitute)**

**Sponsor: Rep. Tom Barrett**

**House Bill 5498 (proposed H-1 substitute)**

**Sponsor: Rep. James A. Lower**

**Committee: Communications and Technology**

**Complete to 3-12-18**

### BRIEF SUMMARY:

House Bills 5494, 5496, and 5497 would amend the Unmanned Aircraft Systems Act (Public Act 436 of 2016) to specify that the operator of an unmanned aircraft system is criminally liable for any activity using the system for which he or she would be criminally liable for performing directly, to designate duties of the Michigan Aeronautics Commission, and to expand the prohibition on knowingly and intentionally operating an unmanned aircraft system that interferes with the official duties of certain public employees.

House Bill 5495 would amend the Michigan Penal Code to include penalties for knowingly operating an unmanned aircraft system that interferes with the operations of certain facilities, while House Bill 5498 would codify those penalties in the Code of Criminal Procedure.

Each of the bills would take effect 90 days after being enacted.

### DETAILED SUMMARY:

The Unmanned Aircraft Systems Act was enacted in 2016 to provide a regulatory framework for the use of unmanned aircraft (drones) in the state. Among other things, the Act created the Unmanned Aircraft Systems Task Force to develop statewide policy recommendations on the operation, use, and regulation of unmanned aircraft systems. The Task Force submitted its final report to the governor and legislature on November 20, 2017.<sup>1</sup> House Bills 5494 through 5498 would implement many of the Task Force's recommendations.

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<sup>1</sup> Available at [http://www.michigan.gov/documents/aero/UASTF\\_Final\\_Report\\_v2\\_Full\\_606520\\_7.pdf](http://www.michigan.gov/documents/aero/UASTF_Final_Report_v2_Full_606520_7.pdf)

**House Bill 5494** would add Section 20 to the Act to specify that a person is guilty of an offense committed with the aid of an unmanned aircraft system if the system was under the person's control and if the activity performed would have given rise to criminal liability had it been performed directly by the person without the aid of an unmanned aircraft system. However, merely flying an unmanned aircraft system through navigable airspace in accordance with federal law would not give rise to criminal liability under the Act.

Proposed MCL 259.320

**House Bill 5496** would add Section 30 to designate duties for the Michigan Aeronautics Commission within the Act. The Commission is established in the Aeronautics Code (MCL 259.26), but would have the following additional duties under the Unmanned Aircraft Systems Act:

- Provide advice to other departments and agencies of this state about the use of unmanned aircraft systems and related technology.
- Provide advice to the public about all of the following:
  - Regulation of unmanned aircraft systems by the federal government and by this state.
  - Safe operating principles for unmanned aircraft systems.
  - Restrictions on the use of unmanned aircraft systems.
  - Any other matters within the scope of the Commission's authority under the Act.
- Provide education and information to departments and agencies of this state, political subdivisions, and the general public about unmanned aircraft systems.
- Receive and consider comments from persons in this state that are interested in or affected by the use of unmanned aircraft systems.

In addition to the Michigan Department of Transportation, the following state departments would provide support to the Commission as necessary and as requested for the Commission to perform its duties:

- Michigan State Police
- Department of Natural Resources
- Department of Corrections
- Department of Agriculture and Rural Development
- Department of Licensing and Regulatory Affairs

HB 5496 also would amend Section 3 to add definitions for *commission* and *department* for purposes of the Act. *Commission* would mean the Michigan Aeronautics Commission, described above, while *department*, unless otherwise expressly stated, would refer to the Michigan Department of Transportation.

MCL 259.303 and proposed 259.330

**House Bill 5497** would amend Section 21 of the Act to expand the prohibition on interfering with the official duties of certain public employees. Currently, the section prohibits an individual from knowingly and intentionally operating an unmanned aircraft

system in a manner that interferes with the official duties of search and rescue personnel or of a police officer, firefighter, or paramedic.

The bill would replace the term “police officer” with “*law enforcement official*” and use the definition found in the Code of Criminal Procedure (MCL 763.7). “Paramedic” would be replaced with “*emergency medical services personnel*,” which is defined in the Public Health Code (MCL 333.20904).

The bill would also add two public employees to the above list and prohibit interference with a state correctional employee and a local corrections employee.

MCL 259.321

**House Bill 5495** would add a section to the Michigan Penal Code to prohibit an individual from knowingly and intentionally operating an unmanned aircraft system in a way that interferes with the operations of a key facility, correctional facility, or other law enforcement facility. An individual would also be prohibited from *flying or hovering* over one of those facilities if the facility is included on the Federal Aviation Administration’s registry of fixed site facilities under Section 2209 of the FAA Extension, Safety, and Security Act of 2016 (PL 114-190). A violation would result in a felony punishable by up to 4 years’ imprisonment, up to a \$2,500 fine, or both.

However, these prohibitions would not apply to a commercial operator of an unmanned aircraft system if the aircraft is operated pursuant to and in compliance with FAA regulations, authorizations, and exemptions.

The bill would define *key facility* as that term is defined in the Michigan Penal Code (MCL 750.552c) and would use the definition for *unmanned aircraft* found in the Unmanned Aircraft Systems Act (MCL 259.303).

Proposed MCL 750.45a

**House Bill 5498** would codify the penalties proposed by HB 5495 within the Code of Criminal Procedure and label the offenses as Class F crimes against public safety. This bill is also tie-barred to HB 5495, which means that it cannot take effect unless HB 5495 is also enacted.

MCL 777.16b

## **FISCAL IMPACT:**

House Bill 5494 would have no fiscal impact on the state or on local units of government.

House Bill 5495 would have an indeterminate fiscal impact on the state’s correctional system and on local court systems. The number of persons who might be convicted under provisions of the bill is not known. New felony convictions would result in increased costs

related to state prisons and state probation supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 5496 would establish new duties for the Michigan Aeronautics Commission with respect to unmanned aircraft systems. As described in detail above, those duties primarily involve advising, educating, and informing state departments and agencies, as well as other political subdivisions and the general public. The Office of Aeronautics within the Michigan Department of Transportation currently provides staff support for the Michigan Aeronautics Commission and functionally carries out the executive duties of the Michigan Aeronautics Commission. House Bill 5496 would effectively increase the workload of the Office of Aeronautics; however, representatives of the department indicate that the additional workload would be nominal and could be accomplished with existing resources.

House Bill 5497 would have no fiscal impact on the state or on local units of government.

House Bill 5498 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

Legislative Analyst: Emily S. Smith  
Fiscal Analysts: Kent Dell  
William E. Hamilton  
Robin Risko

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.