



Senate Fiscal Agency  
P. O. Box 30036  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 5494 (Substitute H-1 as passed by the House)  
House Bill 5495 (Substitute H-1 as passed by the House)  
House Bill 5496 (as passed by the House)  
House Bill 5497 (Substitute H-1 as passed by the House)  
House Bill 5498 (Substitute H-1 as passed by the House)  
Sponsor: Representative Michele Hoyenga (H.B. 5494 & 5496)  
Representative Roger Hauck (H.B. 5495)  
Representative Tom Barrett (H.B. 5497)  
Representative James A. Lower (H.B. 5498)  
House Committee: Communications and Technology  
Senate Committee: Transportation

Date Completed: 12-5-18

**CONTENT**

**House Bill 5494 (H-1) would amend the Unmanned Aircraft Systems Act to specify that a person would be guilty of an offense committed with the aid of an unmanned aircraft system (UAS) if the UAS were under the person's control and the activity performed with the aid of the UAS would have given rise to criminal liability under the penal law of the State if it were performed directly by the person without the aid of the UAS.**

**House Bill 5495 (H-1) would amend the Michigan Penal Code to prohibit a person from knowingly and intentionally using an unmanned aircraft in a manner that interfered with the operations of a key facility, correctional facility, or other law enforcement facility; to exclude commercial operators of an unmanned aircraft from this prohibition if the aircraft were operated in compliance with Federal Aviation Administration regulations, authorizations, and exemptions; and to prescribe a felony penalty for a person who violated the above prohibition.**

**House Bill 5496 would amend the Unmanned Aircraft Systems Act to prescribe several duties to the Michigan Aeronautics Commission pertaining to UAS regulatory advice and education.**

**House Bill 5497 (H-1) would amend the Unmanned Aircraft Systems Act to revise the list of people an individual is prohibited from interfering with through the operation of an UAS.**

**House Bill 5498 (H-1) would amend the Code of Criminal Procedure to include the felony proposed by House Bill 5495 (H-1) in the sentencing guidelines.**

House Bill 5494 (H-1) and House Bill 5498 (H-1) are tie-barred to House Bill 5495.

Each bill would take effect 90 days after it was enacted.

### **House Bill 5494 (H-1)**

Under the bill, a person would be guilty of an offense committed with the aid of a UAS if the UAS were under the person's control and the activity performed with the aid of the UAS would have given rise to criminal liability under the penal law of the State if it were performed directly by the person without the aid of a UAS.

Except as otherwise provided in the Unmanned Aircraft Systems Act and Section 45 (a)1 of the Penal Code (which House Bill 5495 (H-1) would add), solely flying a UAS through navigable airspace in accordance with Federal law would not give rise to criminal liability under the penal law of the State.

### **House Bill 5495 (H-1)**

The bill would amend the Penal Code to prohibit a person from knowingly and intentionally using an unmanned aircraft in a manner that interfered with the operations of a key facility, a correctional facility, or other law enforcement facility. If a facility listed above were included on the Federal Aviation Administration's Registry of Fixed Site Facilities, a person could not fly or cause an unmanned aircraft to hover over the facility.

A person who violated these provisions would be guilty of a felony punishable by imprisonment for up to four years or a maximum fine of \$2,500, or both.

The bill would not apply to a commercial operator of an unmanned aircraft if it were operated under and in compliance with Federal Aviation Administration regulations, authorizations, and exemptions.

"Key facility" would mean that term as defined in Section 552c of the Michigan Penal Code.

(Section 552c defines "key facility" as one or more of the following:

- A chemical manufacturing facility.
- A refinery.
- An electric utility facility, including a power plant, a power generation facility peaker, an electric transmission facility, an electric station or substation, or any other facility used to support the generation, transmission, or distribution of electricity.
- A water intake structure or water treatment facility.
- A natural gas utility facility, including an age station, odorization facility, main line valve, natural gas storage facility, or any other facility used to support the acquisition, transmission, distribution, or storage of natural gas.
- Gasoline, propane, liquid natural gas, or other fuel terminal or storage facility.
- A transportation facility, including a port, railroad switching yard, or trucking terminal.
- A pulp or paper manufacturing facility.
- A pharmaceutical manufacturing facility.
- A hazardous waste storage, treatment, or disposal facility.
- A telecommunication facility, including a central office or cellular telephone tower site.
- A facility substantially similar to a facility, structure, or station listed above or a resource required to submit a risk management plan under Federal law.)

### **House Bill 5496**

Under the bill, the Michigan Aeronautics Commission would have to do the following:

- Provide advice to other departments and agencies of the State about the use of UAS and related technology.
- Provide advice to the public about regulation of UAS by the Federal government, safe operating principles for UAS, restrictions on the use of UAS, and any other matters within the scope of the Commission's authority.
- Provide education and information to departments and agencies of the State, political subdivisions, and the general public about UAS.
- Receive and consider comments from people in Michigan that were interested in or affected by the use of UAS.

The departments and agencies of the State would have to provide support to the Commission as necessary and as requested for it to perform its duties. In addition to the Department of Transportation's provision of support, all of the following would have to provide primary support to the Commission:

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

### **House Bill 5497 (H-1)**

The Unmanned Aircraft Systems Act prohibits an individual from knowingly and intentionally operating an UAS in a manner that interferes with the official duties of any of the following:

- A police officer.
- A firefighter.
- A paramedic.
- Search and rescue personnel.

The bill would change this list to the following:

- A law enforcement official, as that term is defined in the Code of Criminal Procedure.
- A firefighter.
- Emergency medical services personnel, as that term is defined in the Public Health Code.
- Search and rescue personnel.
- A State correctional employee.
- A local corrections employee.

(The Code of Criminal Procedure defines "law enforcement official" as any of the following:

- A police officer of the State or a political subdivision of the State as defined under the Commission on Law Enforcement Standards Act.
- A county sheriff or his or her deputy.
- A prosecuting attorney.
- A public safety officer of a college or university.
- A conservation officer of the Department of Natural Resources.
- An individual acting under the direction of a law enforcement official described above.

The Public Health Code defines "emergency medical services personnel" as a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.)

### **House Bill 5498 (H-1)**

Under the bill, using an unmanned aircraft in a manner that interfered with certain facilities would be a Class F felony against public safety, with a statutory maximum sentence of four years' imprisonment. In addition, flying over or causing an unmanned aircraft to hover over a facility designated on a Federal registry would be a Class F felony against public safety, with a statutory maximum sentence of four years' imprisonment.

Proposed MCL 259.320 (H.B. 5494)  
Proposed MCL 750.45a (H.B. 5495)  
MCL 259.303 et al. (H.B. 5496)  
MCL 259.321 (H.B. 5497)  
MCL 777.16b (H.B. 5498)

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

#### **House Bill 5494 (H-1)**

The bill would have no fiscal impact on the State or local government.

#### **House Bill 5495 (H-1)**

The bill would have a negative fiscal impact on the State and local government. New felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year.

#### **House Bills 5496 & 5497 (H-1)**

The bills would have a small negative fiscal impact on the Department of Transportation. The bills would have no fiscal impact on local units of government.

House Bill 5496 (H-1) would prescribe new duties for the Aeronautics Commission to provide advice and education regarding unmanned aircraft systems to other departments and to the public. There would likely be some expense related to these new duties, but those expenses would likely be small. House Bill 5497 (H-1) would expand an existing list within the Unmanned Aircraft Systems Act (Public Act 436 of 2016) to include State and local correctional employees. The expansion of this list potentially could create additional revenue as fines through violations of the Act; however, per the Michigan Constitution (Art. VIII, Sec. 9), any increase in revenue through fines as a result of a breach of penal laws would go to libraries, not the Department or local units of government.

#### **House Bill 5498 (H-1)**

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means

that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction would depend on judicial decisions.

Fiscal Analyst: Abbey Frazier  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.