

CHAPTER 2021-165

Committee Substitute for Committee Substitute for Senate Bill No. 44

An act relating to the use of drones by government agencies; amending s. 934.50, F.S.; expanding the authorized uses of drones by law enforcement agencies and other specified entities for specified purposes; providing definitions; requiring the Department of Management Services, in consultation with a specified officer, to publish a list of approved drone manufacturers meeting specified security standards; authorizing the department to consult specified entities and guidance in developing the list; requiring a governmental agency to use a drone from the approved list; requiring specified governmental agencies to submit a specified plan; requiring the department to adopt certain rules; requiring governmental agencies to discontinue the use of specified drones by a certain date; requiring the department to establish minimum security standards for governmental agency drone use; authorizing the department to consult specified agencies in establishing the rules; reenacting s. 330.41(4)(c), F.S., relating to unmanned aircraft systems, to incorporate the amendment made to s. 934.50, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (d) through (k) of subsection (4) of section 934.50, Florida Statutes, are redesignated as paragraphs (i) through (p), respectively, paragraph (a) of subsection (3) is amended, new paragraphs (d) through (h) are added to subsection (4), and subsection (7) is added to that section, to read:

934.50 Searches and seizure using a drone.—

(3) PROHIBITED USE OF DRONES.—

(a) A law enforcement agency may not use a drone to gather evidence or other information, except as provided in subsection (4).

(4) EXCEPTIONS.—This section does not prohibit the use of a drone:

(d) To provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more, provided that:

1. The law enforcement agency that uses the drone to provide an aerial perspective of a crowd of 50 people or more must have policies and procedures that include guidelines:

a. For the agency's use of a drone.

b. For the proper storage, retention, and release of any images or video captured by the drone.

c. That address the personal safety and constitutional protections of the people being observed.

2. The head of the law enforcement agency using the drone for this purpose must provide written authorization for such use and must maintain a copy on file at the agency.

(e) To assist a law enforcement agency with traffic management; however, a law enforcement agency acting under this paragraph may not issue a traffic infraction citation based on images or video captured by a drone.

(f) To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.

(g) By a state agency or political subdivision for:

1. The assessment of damage due to a flood, a wildfire, or any other natural disaster that is the subject of a state of emergency declared by the state or by a political subdivision, before the expiration of the emergency declaration.

2. Vegetation or wildlife management on publicly owned land or water.

(h) By certified fire department personnel to perform tasks within the scope and practice authorized under their certifications.

(7) SECURITY STANDARDS FOR GOVERNMENTAL AGENCY DRONE USE.—

(a) As used in this subsection, the term:

1. "Department" means the Department of Management Services.

2. "Governmental agency" means any state, county, local, or municipal governmental entity or any unit of government created or established by law that uses a drone for any purpose.

(b) By January 1, 2022, the department, in consultation with the state chief information officer, shall publish on the department's website a list of approved manufacturers whose drones may be purchased or otherwise acquired and used by a governmental agency under this section. An approved manufacturer must provide appropriate safeguards to protect the confidentiality, integrity, and availability of data collected, transmitted, or stored by a drone. The department may consult state and federal agencies and any relevant federal guidance in developing the list of approved manufacturers required under this paragraph.

(c) Beginning on the date the department publishes the list of approved drone manufacturers under paragraph (b), a governmental agency may only purchase or otherwise acquire a drone from an approved manufacturer.

(d) By July 1, 2022, a governmental agency that uses any drone not produced by an approved manufacturer shall submit to the department a comprehensive plan for discontinuing the use of such a drone. The department shall adopt rules identifying the requirements of the comprehensive plan required under this paragraph.

(e) By January 1, 2023, all governmental agencies must discontinue the use of drones not produced by an approved manufacturer. The department shall establish by rule, consistent with any federal guidance on drone security, minimum security requirements for governmental agency drone use to protect the confidentiality, integrity, and availability of data collected, transmitted, or stored by a drone. The department may consult federal agencies in establishing the minimum security requirements required under this paragraph.

Section 2. For the purpose of incorporating the amendment made by this act to section 934.50, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 330.41, Florida Statutes, is reenacted to read:

330.41 Unmanned Aircraft Systems Act.—

(4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.

(c) This subsection does not apply to actions identified in paragraph (a) which are committed by:

1. A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity.

2. A law enforcement agency that is in compliance with s. 934.50, or a person under contract with or otherwise acting under the direction of such law enforcement agency.

3. An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

Section 3. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.