

SENATE No. 1446

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the use of unmanned aerial systems.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>1/23/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>1/25/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/29/2019</i>

SENATE No. 1446

By Mr. Moore, a petition (accompanied by bill, Senate, No. 1446) of Michael O. Moore, Brian W. Murray, Michael F. Rush and Patrick M. O'Connor for legislation relative to the use of unmanned aerial systems. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1348 OF 2017-2018.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to the use of unmanned aerial systems.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 272 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 99B the following section:—

3 Section 99C.

4 (a) As used in this section, the following words shall have the following meanings:—

5 “Unmanned aerial vehicle”, an aircraft that is operated without the possibility of direct
6 human intervention from within or on the aircraft.

7 “critical infrastructure facility”, any facility defined as critical infrastructure pursuant to
8 section 369 of the federal aviation administration extension, safety and security act of 2016 and
9 the federal aviation administration reauthorization act of 2018.

10 (b) Any use of an unmanned aerial vehicle shall fully comply with all Federal Aviation
11 Administration requirements and guidelines. Unmanned aerial vehicles may not be equipped
12 with weapons. The acquisition, purchase, or procurement of unmanned aerial vehicles shall be
13 authorized, in the case of a unit of state or county government, by the Secretary of Public Safety,
14 or, in the case of a municipality, by the city council or other governing body, subject to approval
15 by the Secretary of Public Safety. No person shall knowingly operate an unmanned aircraft in
16 violation of airspace restrictions established for critical infrastructure facilities as established
17 pursuant to section 2209 of the federal aviation administration extension, safety and security act
18 of 2016 and the federal aviation administration reauthorization act of 2018.

19 (c) It is unlawful for a government entity or official to operate an unmanned aerial
20 vehicle except as follows—

21 (1) in order to execute a warrant issued under section 2 of chapter 276.

22 (2) for purposes unrelated to criminal investigation or other law enforcement purposes,
23 provided that information derived from such operation shall not be received in evidence in any
24 criminal trial, hearing, or grand jury proceeding, or maintained, shared, or used for any
25 intelligence purpose.

26 (3) in case of emergency when there is reasonable cause to believe that a threat to the life
27 or safety of a person is imminent, subject to the following limitations:

28 i. the operator shall document the factual basis for the emergency; and

29 ii. not later than 48 hours after the unmanned aerial vehicle is initially deployed, a
30 supervisory official shall file an affidavit describing the grounds for the emergency access.

31 (d) The lawful operation of unmanned aerial vehicles described in subsection (b) and the
32 disclosure of information acquired by the operation of such vehicles shall be subject to the
33 following limitations:

34 (1) When operated pursuant to a warrant, unmanned aerial vehicles shall collect data only
35 on the warrant subject and avoid data collection on individuals, homes, and areas other than the
36 warrant subject.

37 (2) Facial recognition and other biometric matching technology shall not be used on data
38 collected by an unmanned aerial vehicle, except to identify the subject of a warrant.

39 (3) Under no circumstances shall unmanned aerial vehicles be used to track, collect or
40 maintain information about the political, religious or social views, associations or activities of
41 any individual, group, association, organization, corporation, business or partnership or other
42 entity unless such information relates directly to investigation of criminal activity, and there are
43 reasonable grounds to suspect the subject of the information is involved in criminal conduct.

44 (e) Data collected on an individual, home, or area other than the target that justified
45 deployment shall not be used, stored, copied, transmitted, or disclosed for any purpose, except
46 with the written consent of the data subject. Such data shall be deleted as soon as practical, and
47 in no event later than 24 hours after collection.

48 (f) Information acquired by government use of an unmanned aerial vehicle and
49 information derived therefrom shall not be received in evidence in any judicial, regulatory, or
50 other government proceeding if:

51 (1) the use of the unmanned aerial vehicle was unlawful;

52 (2) the unmanned aerial vehicle was used for an unlawful purpose or in an unlawful
53 manner; or

54 (3) the disclosure would be in violation of the data retention limits in subsection (e).

55 (g) A government office or public official may include in its application for a warrant a
56 request for an order delaying the notification required under subsection (g) for a period not to
57 exceed 90 days, and the court shall issue the order if it determines there is reason to believe that
58 notification of the existence of the warrant may have an adverse result as defined in section 1B
59 of chapter 276. Upon expiration of any period of delay granted under this subsection, the
60 government office or public official shall provide the warrant subject a copy of the warrant
61 together with notice required under, and by the means described in, subsection (h).

62 (h) Not later than seven days after information is collected by an unmanned aerial vehicle
63 pursuant to subsection (c)(1) of this section, the government entity or official shall serve upon, or
64 deliver by registered or first-class mail, electronic mail, or other means reasonably calculated to
65 be effective as specified by the court issuing the warrant to the subject of the warrant a copy of
66 the warrant, a copy of the application for the warrant, and notice that informs such individual:—

67 (1) of the nature of the law enforcement inquiry with reasonable specificity;

68 (2) that information regarding the warrant subject was collected, the dates on which the
69 information was collected, and a description of that information;

70 (3) whether notification was delayed pursuant to subsection (h); and

71 (4) the judicial official authorizing any delay in notification.

72 (i) On the second Friday of January of each calendar year, any judge issuing or denying a
73 warrant under subsection (c)(1) during the preceding calendar year shall report on each such
74 warrant to the office of court management within the trial court:

75 (1) the fact that the warrant was applied for;

76 (2) the identity of the government entity or official making the application;

77 (3) the offense specified in the warrant or application therefor;

78 (4) the place where the information was to be obtained;

79 (5) the fact that the warrant was granted as applied for, was modified, or was denied; and

80 (6) the number and duration of any extensions of the warrant.

81 In June of each year, beginning in 2013, the court administrator in the office of court
82 management within the trial court shall transmit to the legislature a full and complete report
83 concerning the number of applications for warrants authorizing the use of unmanned aerial
84 vehicles pursuant to subsection (c)(1) of this section. Such reports shall include a summary and
85 analysis of the data required to be filed with that office. Such reports shall be filed with the
86 offices of the clerk of the house and the senate and shall be public records. The court
87 administrator in the office of court management within the trial court shall issue guidance
88 regarding the form of such reports.

89 SECTION 2. Section 65 of Chapter 131 of the General Laws, as appearing in the 2012
90 Official Edition, is hereby amended by adding, in line 3, after the word "helicopter" the
91 following words:-

