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HOUSE BILL NO. 2552

Offered January 9, 2019

Prefiled January 9, 2019

A *BILL to amend and reenact § 19.2-60.1 of the Code of Virginia, relating to search warrants; unmanned aircraft systems; delayed notice.*

Patron—Brewer (By Request)

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-60.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-60.1. Use of unmanned aircraft systems by public bodies; search warrant required.

A. As used in this section, unless the context requires a different meaning:

"Unmanned aircraft" means an aircraft that is operated without the possibility of human intervention from within or on the aircraft.

"Unmanned aircraft system" means an unmanned aircraft and associated elements, including communication links, sensing devices, and the components that control the unmanned aircraft.

B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3; (ii) when a Senior Alert is activated pursuant to § 52-34.6; (iii) when a Blue Alert is activated pursuant to § 52-34.9; (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person; (v) by a law-enforcement officer following an accident where a report is required pursuant to § 46.2-373, to survey the scene of such accident for the purpose of crash reconstruction and record the scene by photographic or video images; (vi) by the Department of Transportation when assisting a law-enforcement officer to prepare a report pursuant to § 46.2-373; (vii) for training exercises related to such uses; or (viii) if a person with legal authority consents to the warrantless search.

D. The warrant requirements of this section shall not apply when such systems are utilized to support the Commonwealth or any locality for purposes other than law enforcement, including damage assessment, traffic assessment, flood stage assessment, and wildfire assessment. Nothing herein shall prohibit use of unmanned aircraft systems for private, commercial, or recreational use or solely for research and development purposes by institutions of higher education and other research organizations or institutions.

E. A law-enforcement officer who applies for a search warrant from a judicial officer pursuant to this chapter may request that any notice of the search warrant be delayed for a period of up to 30 days if (i) the judicial officer finds reasonable cause to believe that providing immediate notification of the execution of the warrant may (a) endanger the life or physical safety of an individual, (b) cause a person to flee from prosecution, (c) cause the destruction of or tampering with potential evidence, (d) cause intimidation of potential witnesses, or (e) otherwise jeopardize an investigation or unduly delay a trial; (ii) the warrant prohibits the seizure of any tangible property or the interception of any wire, electronic, or oral communications; and (iii) the search utilizing an unmanned aircraft system is executed by a law-enforcement officer. Upon the expiration of the period of delay of notification, the law-enforcement officer who executed the search shall serve a copy of the executed search warrant on the person who was searched or the person whose property was searched. Service may be accomplished (a) by delivering a copy to the person who, or whose property, was searched or by leaving a copy with any individual found at the person's usual place of abode who is a member of the person's family, other than a temporary sojourner or guest, and who is 16 years of age or older and (b) by mailing a copy to the person's last known address.

F. Evidence obtained through the utilization of an unmanned aircraft system in violation of this section is not admissible in any criminal or civil proceeding.

G. In no case may a weaponized unmanned aircraft system be deployed in the Commonwealth or its use facilitated in the Commonwealth by a state or local government department, agency, or instrumentality or department of law enforcement in the Commonwealth except in operations at the Space Port and Naval/Aegis facilities at Wallops Island.

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59 ~~G.~~ *H.* Nothing herein shall apply to the Armed Forces of the United States or the Virginia National
60 Guard while utilizing unmanned aircraft systems during training required to maintain readiness for its
61 federal mission or when facilitating training for other U.S. Department of Defense units.