

HB 2789.E - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Provides that, except as otherwise specifically authorized in this act, it is unlawful for an agency to: (1) Operate an extraordinary sensing device; or

(2) Disclose personal information about a person acquired through the operation of an extraordinary sensing device.

Requires the department of enterprise services to convene a work group comprised of four legislators and a representative of the governor and requires the work group to submit a report to the legislature by December 1, 2014, proposing standards for the use of extraordinary sensing devices for regulatory enforcement purposes.

VETO MESSAGE ON EHB 2789

April 4, 2014

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed House Bill No. 2789 entitled:

"AN ACT Relating to technology-enhanced government surveillance."

This legislation imposes restrictions on state and local agency procurement and usage of "extraordinary sensing devices" attached to unmanned aircraft systems, more popularly known as "drones." Among a number of provisions, the bill imposes a prohibition on the use of extraordinary sensing devices and the disclosure of personal information acquired through such devices, with some exceptions, and creates a new definition of personal information.

After receiving extensive input and considerable reflection, I am vetoing the bill. However, I am issuing a moratorium to executive-branch state agencies to prohibit the purchase and use of these devices during the next 15 months, and asking local law enforcement to do the same.

The Legislature is rightfully concerned about the effects of new technology on our citizens' right to privacy. I share that same concern and take the right to privacy very seriously. As articulated by the lawmakers who supported this bill, some members of the public have concern that, without rules and standards dictating the acceptable uses of unmanned aircraft systems, the government might embark on suspicion-less and warrantless surveillance using this technology. As pointed out

by lawmakers on both sides of the aisle, it is important we create the right framework to address these issues so Washingtonians can feel confident their privacy is protected.

While we work in the coming months to create a framework that is protective and can be effectively implemented, no state executive agency will purchase or use these devices until the Legislature has the opportunity to revisit these critical issues in the next session.

I have also heard concerns that local law enforcement agencies might use this veto as an opportunity to purchase these devices this year and conduct warrantless surveillance. I believe local government is as concerned as I am about ensuring our citizens' rights are not violated. Because of this, I am asking the police chiefs and sheriffs across the state to also refrain from acquiring these devices for the next 15 months and to join us in evaluating the appropriate ways to use these new technologies.

However, I understand there could be an extraordinary natural disaster or other need for a rare exception to this directive.

If we are going to build clear standards for procurement, use and data collection policies for new technology, it's important we do this right. Unfortunately, I do not believe this bill is the appropriate first step. Among other issues, this measure contains conflicting provisions on disclosure and destruction of personal information. This could lead to shielding government uses of this technology from public disclosure. We must ensure that government transparency and accountability are amply provided, which are not clearly guaranteed in this legislation.

The bill also includes an expansive new definition of personal information that would make it impossible to use this technology without violating the prohibitions as written in this bill, and lacks the clarity necessary to give both regulatory and law enforcement agencies - and the public - a clear understanding of how these technologies can and will be used in the future.

I commend the parties for bringing this issue to the forefront and for their determination to get a bill passed this session. While I considered exercising section vetoes to achieve this end, this was not possible.

I share the parties' concern about the privacy of our citizens, and I want members of the public to feel confident their government is protecting them while not violating their rights in the process. I have heard from many who support the passage of this bill and many who are concerned it is not yet ready to be enacted into law. I have carefully read and considered this bill, and believe it deserves more work. I

believe, too, we want to get ahead of this issue and get standards in place before government agencies start to use this new technology.

My office will be creating a task force this month to better examine these complex issues and develop a fully vetted bill for the 2015 legislative session. The task force will be composed of a broad group of stakeholders to include legislators, the ACLU, state agencies, law enforcement, industry and citizens-at-large. We need to work through these concerns in a transparent and thoughtful manner to make sure what we sign into law protects the privacy of Washingtonians while also creating clear and fair standards for the use of new technology to protect the safety and well-being of our citizens.

For these reasons I have vetoed Engrossed House Bill No. 2789 in its entirety.

Respectfully submitted,
Jay Inslee
Governor