
A BILL FOR AN ACT

RELATING TO UNMANNED AERIAL VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the emergence and
2 development of unmanned aerial vehicles (UAVs), more commonly
3 referred to as drones, and related system technology provide
4 numerous benefits for the people of Hawaii on many fronts. UAVs
5 provide both the State and the public at large with next
6 generation tools and technologies in aerial reconnaissance and
7 surveying for a multitude of beneficial purposes including new
8 economic opportunities in technology, new tools to help law
9 enforcement and emergency personnel with their critical duties,
10 and means for state agencies and private sector entities to
11 carry out functions at a lower cost and with less danger to
12 their employees.

13 However, the legislature also recognizes there are those
14 who may not operate UAVs in a safe and respectful manner and, as
15 such, some minimum baseline legislation is necessary to protect
16 the public and enshrine privacy interests. The legislature also
17 finds that it is imperative to safeguard critical public



1 infrastructure and facilities, provide a mechanism for county
2 and state agencies to deploy UAVs for beneficial purposes, and
3 preserve lawful licensed operations within the regulatory
4 framework permissible by the Federal Aviation Administration.

5 The legislature recognizes that several states have enacted
6 baseline legislation in the areas of privacy and permissible
7 uses by the public, law enforcement, and state and county
8 government agencies. This legislation has attempted to preserve
9 freedom of the skies and the ability to develop this nascent
10 industry into jobs and economic growth. While current Hawaii
11 law already provides the public with various protections, such
12 as in the areas of privacy, the legislature finds that
13 additional legislation is necessary to cover areas of concern
14 for specific locations and situations as other states have done
15 with regard to UAVs.

16 As in other states that have taken a similar approach, the
17 legislature recognizes that because of the changing landscape,
18 both in terms of federal regulation as well as the technology
19 itself, the establishment of a permanent UAV task force is
20 essential in order to ensure that the State is ready to react to
21 any changes in federal law or in technology. The legislature



1 also finds that, along with baseline laws for the safe operation
2 of UAVs, a permanent task force is needed not to endlessly study
3 the issue, but rather to ensure that both the vital stakeholders
4 as well as the public can respond to the various changes as they
5 occur in both federal regulations as well as with the technology
6 itself. Rather than reformulating the task force every time a
7 change to UAV regulation or new technological advances occur, a
8 permanent task force on UAVs can ensure that Hawaii responds to
9 these changes and can coordinate with the permanent task forces
10 or working groups in other states to better harmonize state laws
11 and create a united front in dealing with the federal government
12 for suggested amendments to federal law.

13 The legislature finds that a permanent task force is also
14 needed because of the potential of UAV deregulation that may
15 occur due to the federal Executive Order 13771 issued on January
16 30, 2017. The legislature finds that this Executive Order
17 requires that two federal administrative rules must be removed
18 for every new rule established. UAV industry stakeholders are
19 currently lobbying the federal government to remove the UAV
20 rules promulgated by the Federal Aviation Administration in
21 order to preserve more important rules in the areas of



1 environmental protection and public safety. The legislature
 2 finds that by adopting a permanent task force as other States
 3 have done, Hawaii can not only remain on the forefront of UAV
 4 regulation and promotion as compared to other states, but can
 5 also respond if federal rules regarding UAVs are removed over
 6 the next four years because of Executive Order 13771 thus
 7 leaving these areas solely subject to state jurisdiction.

8 The purpose of this Act is to establish unmanned aerial
 9 vehicle laws that complement federal regulation.

10 SECTION 2. The Hawaii Revised Statutes is amended by
 11 adding a new chapter to be appropriately designated and to read
 12 as follows:

13 **"CHAPTER**

14 **UNMANNED AERIAL VEHICLES**

15 **§ -1 Definitions.** As used in this chapter:

16 "Critical facility" means:

- 17 (1) A petroleum refinery;
- 18 (2) A petroleum or chemical production, transportation,
 19 storage, or processing facility;
- 20 (3) A chemical manufacturing facility;
- 21 (4) A water or wastewater treatment facility;



- 1 (5) A water development, distribution, or conveyance
- 2 system, including a dam;
- 3 (6) An electrical generation facility, distribution
- 4 facility, or substation, or electrical transmission
- 5 lines of at least sixty-nine thousand volts;
- 6 (7) An electronic communication station or tower;
- 7 (8) A facility that transports or distributes natural gas;
- 8 (9) Any railway right-of-way;
- 9 (10) A federal or state court;
- 10 (11) A public safety or emergency operations center;
- 11 (12) A federal or state correctional facility or detention
- 12 center or other facility in which persons are
- 13 incarcerated;
- 14 (13) A federal or state military installation; or
- 15 (14) A hospital with air ambulance services.
- 16 "Flight data" means imaging or other observation recording.
- 17 "Flight information" means flight duration, flight path,
- 18 and mission objective.
- 19 "Law enforcement agency" means any county police
- 20 department, the department of public safety, and any federal,



1 state, or county public body that employs law enforcement
2 officers.

3 "Operator" means a person using or operating an unmanned
4 aerial vehicle.

5 "Person" means a corporation, firm, partnership,
6 association, individual, or organization or any other group
7 acting as a unit.

8 "Unmanned aerial vehicle" means any aerial vehicle that is
9 operated without the possibility of direct human intervention
10 within or on the aerial vehicle. The term "unmanned aerial
11 vehicle" does not include a remote controlled airplane.

12 "Unmanned aerial vehicle system" means an unmanned aerial
13 vehicle and associated elements, including any communication
14 links and components that control the unmanned vehicle, which
15 are required for the operator in command to operate safely and
16 efficiently in state airspace.

17 § -2 Prohibited acts; penalty. (a) No person shall
18 operate an unmanned aerial vehicle:

19 (1) In violation of any Federal Aviation Administration
20 regulations relating to the operation of unmanned



1 aerial vehicles, or any other applicable federal or
2 state law;

3 (2) In a manner that interferes with law enforcement,
4 firefighter, or emergency services operations; or

5 (3) To intentionally photograph or loiter over a critical
6 facility without written consent of the facility.

7 (b) A violation of paragraphs -2(a)(1) or -
8 2(a)(2) is a petty misdemeanor. A violation of paragraph -
9 2(a)(3) is a misdemeanor, except that a second or subsequent
10 violations is a class C felony.

11 (c) Except as otherwise provided by subsection (d) and any
12 other law, a county shall not enact or adopt any ordinance,
13 policy, or rule that regulates or relates to the ownership or
14 operation of an unmanned aerial vehicle or unmanned aerial
15 vehicle system.

16 (d) This section shall not:

17 (1) Apply to a person or entity that is authorized or
18 allowed by the Federal Aviation Administration to
19 operate or use an unmanned aerial vehicle if the
20 person's or entity's operation or use complies with



1 the authorization granted to the person or entity or
2 with Federal Aviation Administration rules; or

3 (2) Prohibit a county from enacting or adopting
4 ordinances, policies, or rules on the operation or use
5 of an unmanned aerial vehicle that is owned by the
6 county.

7 § -3 Prohibited uses by law enforcement agencies;
8 exceptions. (a) No law enforcement agency shall use an
9 unmanned aerial vehicle to gather evidence or other information
10 pertaining to criminal conduct or conduct in violation of a
11 federal or state law without first obtaining a warrant that
12 specifies:

13 (1) The persons that will have the power to authorize the
14 use of the unmanned aerial vehicle;

15 (2) The location in which the unmanned aerial vehicle will
16 operate;

17 (3) The maximum period of operation for the unmanned
18 aerial vehicle during each flight;

19 (4) Whether the unmanned aerial vehicle will collect
20 information or data about individuals or groups of
21 individuals;



- 1 (5) The circumstances under which the unmanned aerial
2 vehicle will be used; and
- 3 (6) The specific kinds of information or data the unmanned
4 aerial vehicle will collect about individuals and how
5 that information and data will be used, disclosed, or
6 otherwise handled including:
- 7 (A) The period of time that the information or data
8 will be retained; and
- 9 (B) Whether the information or data will be
10 destroyed, including the time and method of
11 destruction.
- 12 (b) Information or data obtained from an unmanned aerial
13 vehicle used by a law enforcement agency shall not be admissible
14 in a prosecution or proceeding within the State unless the
15 information or data was obtained:
- 16 (1) Pursuant to the authority of a valid warrant that
17 complies with section -3(a); or
- 18 (2) In accordance with an exception to the warrant
19 requirement as provided by a court of competent
20 jurisdiction.



1 (c) Information or data obtained from the operation of an
2 unmanned aerial vehicle shall not be used in an affidavit of
3 probable cause in an effort to obtain a warrant, unless the
4 information or data was obtained under the circumstances
5 described in section -3(b).

6 (d) No law enforcement agency shall:

7 (1) Allow the use of an unmanned aerial vehicle that
8 permits any private person to conduct surveillance on
9 any other private person without the express informed
10 consent of that other person or the owner of any real
11 property on which that other person is present; or

12 (2) Use an unmanned aerial vehicle for the surveillance of
13 the lawful exercise of constitutional rights, unless
14 the surveillance is otherwise allowed under this
15 section.

16 (e) Any law enforcement agency, person, or operator
17 authorized to conduct surveillance by a court shall document all
18 use of the unmanned aerial vehicle for surveillance. The
19 documentation shall include information on the duration, flight
20 path, and mission objectives of all surveillance flights. The
21 flight information shall be:



- 1 (1) Verified to be accurate and complete by the
- 2 supervising person of the law enforcement agency,
- 3 person, or operator authorized by a court to conduct
- 4 the surveillance; and
- 5 (2) Retained for five years.
- 6 (f) Any images or any other forms of information or data
- 7 lawfully obtained under this section which are not accompanied
- 8 by a reasonable and articulable suspicion that the images,
- 9 information, or data contain evidence of a crime or are relevant
- 10 to an ongoing investigation or trial shall not be retained for
- 11 more than ninety days.
- 12 (g) Notwithstanding subsections (a), (b), (c), (d), (e),
- 13 and (f) and in addition to the authorized activities under
- 14 section -4, a law enforcement agency may deploy an unmanned
- 15 aerial vehicle for the following purposes:
- 16 (1) To assess and evaluate weather-related or
- 17 environmental damage, erosion, flood damage,
- 18 contamination issues, health issues, or any other
- 19 weather-related issues necessary to protect public
- 20 health and safety, prevent or mitigate property loss,



1 or determine whether a declaration of a state of
2 emergency is necessary; or

3 (2) To conduct training exercises related to any purpose
4 set forth in this subsection.

5 **§ -4 Public agency exceptions.** Nothing in this chapter
6 shall prohibit the use of unmanned aerial vehicles by a public
7 agency:

8 (1) To conduct environmental or disaster response,
9 including but not limited to disaster relief, victim
10 recovery or search and rescue, and monitoring,
11 inspection, underwater repair, or structural damage
12 assessments;

13 (2) To dispose of a suspected or actual explosive device;

14 (3) To monitor plant or animal populations;

15 (4) To conduct atmospheric testing or monitoring;

16 (5) For farming and agricultural uses;

17 (6) To review traffic congestion and conditions;

18 (7) To survey or inspect public lands and property;

19 (8) To survey the ocean and coastline; or

20 (9) For purposes specified in section -3(g).



1 § -5 **Weapons; prohibited.** (a) No person, public
2 agency, or law enforcement agency shall equip an unmanned aerial
3 vehicle with a weapon or deploy an unmanned aerial vehicle that
4 is equipped with a weapon.

5 (b) For the purposes of this section, "weapon" means any
6 device designed to harm or incapacitate a human being by use of
7 a projectile, explosive, biological or chemical agent,
8 electricity, visible or invisible directed energy, radiation, or
9 any other means."

10 SECTION 3. (a) There is established, within the
11 department of commerce and consumer affairs for administrative
12 purposes only, the unmanned aerial system task force consisting
13 of the following members:

14 (1) One member of the house of representatives appointed
15 by the speaker of the house, who shall serve as co-
16 chair;

17 (2) One member of the senate appointed by the senate
18 president, who shall serve as co-chair;

19 (3) The director of transportation, or the director's
20 designee;



- 1 (4) The director of business, economic development, and
2 tourism, or the director's designee;
- 3 (5) The director of commerce and consumer affairs, or the
4 director's designee;
- 5 (6) The chairperson of the board of land and natural
6 resources, or the chairperson's designee;
- 7 (7) The chairperson of the board of agriculture, or the
8 chairperson's designee;
- 9 (8) The attorney general, or the attorney general's
10 designee;
- 11 (9) A member representing the University of Hawaii
12 appointed by the president of the university;
- 13 (10) Two members appointed by the Hawaii state association
14 of counties representing emergency medical services
15 personnel and a county department of planning and
16 permitting;
- 17 (11) The chief of police of the city and county of Honolulu
18 or the chief's designee;
- 19 (12) One member representing the commercial unmanned aerial
20 vehicle industry, appointed by the speaker of the
21 house; and



1 (13) One member representing the motion picture, film, and
2 television industry appointed by the senate president.

3 (b) Task force members shall be appointed within ninety
4 days of the effective date of this Act and the task force shall
5 hold its initial meeting within thirty days of the date on which
6 all members have been appointed.

7 (c) The task force shall study and make recommendations
8 for the regulation of the operation and use of unmanned aerial
9 vehicles commonly referred to as drones, within the State. As
10 part of the study, the task force shall consider public agency,
11 commercial, and private use of unmanned aerial vehicles;
12 landowner and privacy rights; existing federal laws and
13 regulations regarding unmanned aerial vehicles; laws enacted by
14 other states regarding the use and operation of unmanned aerial
15 vehicles; general rules, regulations, and safe practices for the
16 operation of unmanned aerial vehicles; permitting systems for
17 unmanned aerial vehicle use; and any other issue deemed
18 necessary by the task force

19 (d) Members of the task force shall serve without
20 compensation.



1 (e) No member of the task force shall be made subject to
2 chapter 84, Hawaii Revised Statutes, solely because of that
3 member's participation as a member of the task force.

4 (f) The task force shall also work in collaboration with
5 other state task forces or working groups on unmanned aerial
6 vehicles and unmanned aerial vehicle systems.

7 (g) The director of commerce and consumer affairs, in
8 consultation with the task force, shall submit a report of the
9 findings and recommendation of the task force, including any
10 proposed legislation, to the legislature no later than twenty
11 days prior to the convening of the regular session of 2019. The
12 report shall also include any information or data resulting from
13 the task force's collaborative efforts with other states.

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Hawaii State Association of Counties Package; Unmanned Aerial Vehicles; Violation of Privacy; DCCA

Description:

Establishes a new chapter to regulate the use of unmanned aerial vehicles. Establishes prohibited uses of unmanned aerial vehicles for individuals, law enforcement agencies, and public agencies. Provides certain exceptions for the use of unmanned aerial vehicles. Makes certain uses of an unmanned aerial vehicle a petty misdemeanor and misdemeanor and Class C felony for a second of subsequent violations. Establishes a task force. (HB314 HD1)

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