

JAN 23 2015

A BILL FOR AN ACT

RELATING TO UNMANNED AIRCRAFTS.

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

1 SECTION 1. The legislature finds that unmanned aircraft
2 technology is rapidly developing. Public Law 112-95 (2012)
3 requires the Federal Aviation Administration to "accelerate the
4 integration of civil unmanned aircraft systems into the national
5 airspace system". While unmanned aircraft technology offers
6 more efficient and cost saving methods to gather information,
7 this new and innovative technology may also provide
8 opportunities for abuse.

9 In recognizing the progressive opportunities that unmanned
10 aircrafts provide, the legislature also recognizes its duty to
11 protect Hawaii residents from threats to their constitutional
12 right to privacy. The legislature further finds that in 2013,
13 twelve other states enacted legislation regulating deployment of
14 unmanned aircraft technology. However, the legislature
15 acknowledges that the Federal Aviation Administration has been
16 mandated by the United States Congress to research and develop a
17 regulatory scheme for the commercial use of unmanned aircrafts.



1 As such, it is the intent of the legislature to wait for the
2 findings from the Federal Aviation Administration before
3 regulating the commercial use of unmanned aircrafts.

4 The purpose of this Act is to ensure that unmanned aircraft
5 technology is used strictly to assist or benefit Hawaii
6 residents and not used in a manner that will impede their right
7 to privacy.

8 SECTION 2. Chapter 803, Hawaii Revised Statutes, is
9 amended by adding a new part to be appropriately designated and
10 to read as follows:

11 **"PART . UNMANNED AIRCRAFTS**

12 **§803-A Definitions.** As used in this part unless otherwise
13 required by context:

14 "Law enforcement agency" means any agency of the State,
15 county, or United States that is vested by law with the duty to
16 maintain public order and to enforce the criminal laws.

17 "Model aircraft" means an unmanned aircraft that is:

- 18 (1) Capable of sustained flight in the atmosphere;
- 19 (2) Flown within visual line of sight of the person
20 operating the aircraft; and
- 21 (3) Flown for hobby or recreational purposes.



1 "Unmanned aircraft" means an aircraft that is operated
2 without direct human intervention onboard the aircraft.

3 §803-B Use of unmanned aircrafts prohibited. Except as
4 provided under this part, it shall be unlawful for any law
5 enforcement agency to use an unmanned aircraft to conduct
6 surveillance, including but not limited to capturing images,
7 photographs, or recordings. Nothing in this part shall be
8 construed to limit or prohibit the use of model aircrafts for
9 commercial, hobby, or recreational purposes.

10 §803-C Exceptions. This part shall not apply to a law
11 enforcement agency under any of the following circumstances:

12 (1) A finding based on credible intelligence is made by
13 the United States Secretary of Homeland Security that
14 the use of an unmanned aircraft is necessary to
15 counter a high risk terrorist attack by a specific
16 individual or organization;

17 (2) A search warrant is issued pursuant to this chapter
18 that permits the use of an unmanned aircraft; provided
19 that the search warrant shall be valid for a period
20 not to exceed thirty days but may be extended by the



1 court for no more than thirty additional days upon a
2 showing of good cause;

3 (3) The use of an unmanned aircraft is necessary to assist
4 in search and rescue activities or locate missing
5 persons;

6 (4) The use of an unmanned aircraft is necessary to assist
7 in the operation, exercise, or mission of any branch
8 of the United States military; or

9 (5) The use of an unmanned aircraft is necessary to assist
10 the Hawaii emergency management agency under chapter
11 127A or provide relief pursuant to the governor's
12 declaration of a state disaster under section 209-2.

13 **§803-D Retention of information.** If a law enforcement
14 agency uses an unmanned aircraft pursuant to section 803-C, the
15 law enforcement agency shall destroy all information collected
16 by the unmanned aircraft no later than thirty days after such
17 information is collected unless the information is necessary for
18 and relevant to an ongoing criminal investigation or pending
19 criminal trial.

20 **§803-E Disclosure of information.** If a law enforcement
21 agency uses an unmanned aircraft pursuant to section 803-C, the



1 law enforcement agency shall not disclose any information
2 collected by the unmanned aircraft unless the collected
3 information is necessary for and relevant to an ongoing criminal
4 investigation or pending criminal trial.

5 §803-F Remedies for violations. An aggrieved party may
6 initiate a civil action to:

7 (1) Obtain any appropriate relief, including but not
8 limited to equitable relief to prevent or remedy a
9 violation of this part; and

10 (2) Recover monetary damages, including actual and general
11 damages, attorney's fees, and other litigation costs
12 reasonably incurred, in an amount no less than \$1,000;
13 or

14 (3) Recover monetary damages, including actual and general
15 damages, attorney's fees, and other litigation costs
16 reasonably incurred, in an amount no less than \$10,000
17 if information collected through the use of an
18 unmanned aircraft was publicly disclosed without the
19 aggrieved party's permission.

20 §803-G Reporting. (a) In January of each year, any law
21 enforcement agency that used an unmanned aircraft during the



1 previous calendar year shall report to the legislature its
2 unmanned aircraft activities and shall provide a copy of the
3 report to the judiciary. The report shall include the following
4 information:

5 (1) The number of times an unmanned aircraft was used,
6 organized by the types of incidents and the types of
7 justification for deployment;

8 (2) The number of crime investigations aided by the use of
9 each unmanned aircraft, along with a description of
10 how the unmanned aircraft was helpful to each
11 investigation; and

12 (3) The total cost of the law enforcement agency's
13 unmanned aircraft program.

14 (b) In January of each year, any court that has issued a
15 search warrant permitting the use of an unmanned aircraft,
16 issued an extension or modification of such warrant, or denied
17 an application for such warrant during the previous calendar
18 year shall report to the judiciary the number, kind, and
19 duration of search warrants or search warrant extensions applied
20 for, granted, modified, or denied."



S.B. NO. 579

1 SECTION 3. This Act does not affect rights and duties that
 2 matured, penalties that were incurred, and proceedings that were
 3 begun before its effective date.

4 SECTION 4. In codifying the new sections added by section
 5 2 of this Act, the revisor of statutes shall substitute
 6 appropriate section numbers for the letters used in designating
 7 the new sections in this Act.

8 SECTION 5. This Act shall take effect upon its approval.
 9

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S.B. NO. 579

Report Title:

Unmanned Aircrafts; Right to Privacy

Description:

Prohibits the use of unmanned aircrafts, except by law enforcement agencies, to conduct surveillance and establishes certain conditions for law enforcement agencies to use an unmanned aircraft to obtain information. Exempts the use of model aircrafts for commercial, hobby, or recreational purposes. Requires all law enforcement agencies using unmanned aircrafts and the courts to report on their activities relating to unmanned aircrafts.

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