
A BILL FOR AN ACT

RELATING TO REMOTELY OPERATED VEHICLES.

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

1 SECTION 1. This Act shall be known and may be cited as the
2 "Protection from Unwarranted Surveillance Act."

3 SECTION 2. The legislature finds that since the mid-1960s,
4 federal and state agencies have drastically increased their
5 reliance on military technologies to respond to domestic strife
6 and to conduct routine law enforcement operations. The lack of
7 caution in employing these technologies and the accelerated
8 implementation of surveillance tools such as remotely operated
9 vehicles, commonly known as "drones", throughout the United
10 States poses a serious threat to the privacy and constitutional
11 rights of the people of the State.

12 The legislature also finds that public and private entities
13 have begun to use drones for various law enforcement,
14 commercial, and scientific tasks within the United States,
15 absent any guidance or guidelines from lawmakers. The federal
16 government and the State have thus far failed to provide
17 reasonable legal strictures on the use of drones within their
18 respective jurisdictions. Since January 2013, nine states have



1 passed laws that address this legislative gap. Hawaii is among
2 thirty-five states that introduced legislation during the past
3 year that would restrict drone use but failed to enact the
4 proposed measures.

5 The legislature further finds that the protection of human
6 life and other similar interests that involve remote presence
7 tasks may override the right to privacy and that provision needs
8 to be made for certain research and humanitarian uses of
9 remotely operated vehicles. The legislature does not intend to
10 interfere with the use of remotely operated vehicles by federal
11 entities.

12 The purpose of this Act is to prohibit the abuse, misuse,
13 or unwarranted collection of personal information gathered by
14 remotely operated vehicles and to implement safeguards against
15 constitutionally dubious surveillance programs.

16 SECTION 3. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 "CHAPTER

20 REMOTELY OPERATED VEHICLES

21 § -1 Definitions. As used in this chapter, unless the
22 context otherwise requires:



1 "Department" means the department of transportation.
2 "Director" means the director of transportation.
3 "Law enforcement agency" means a state or county agency
4 that is responsible for the prevention and detection of crime
5 and the enforcement of penal, traffic, regulatory, game, or
6 controlled substance laws.

7 "Person" means any individual, corporation, partnership,
8 association, cooperative, limited liability company, trust,
9 joint venture, government agency, political subdivision, or any
10 other legal or commercial entity and any successor,
11 representative, agent, or instrumentality thereof.

12 "Personal information" means all information that:
13 (1) Describes, locates, or indexes information or data
14 relating to person, including but not limited to
15 physical location, social security number, driver's
16 license number, government-issued identification
17 number, student identification number, real or
18 personal property holdings identified in tax filings,
19 educational records, financial transactions, medical
20 history, ancestry, religious affiliation, political
21 ideology or affiliation, criminal record, or
22 employment history;



1 (2) Affords a basis for inferring personal
2 characteristics, such as facial recognition and other
3 biometric identification technology, fingerprints,
4 voiceprints, or photographs; or

5 (3) Indicates a person's membership in or association with
6 an organization, participation in an activity, or
7 admission or entrance to an institution or facility.

8 "Public agency" means any office, department, authority,
9 board, commission, bureau, division, public corporation, entity,
10 or other instrumentality of the State or its political
11 subdivisions.

12 "Remotely operated vehicle":

13 (1) Means any unmanned aerial vehicle, unmanned marine
14 vehicle, and any other land, sea, or aerial device
15 that:

16 (A) Can be operated autonomously or remotely by a
17 human being or by artificial intelligence;

18 (B) Is capable of powered or unpowered movement or
19 hovering;

20 (C) Can be expendable or recoverable;

21 (D) Is with or without a sensing device; and



1 (E) Is with or without a tether connecting the device
2 to the ground or another object; and

3 (2) Does not include a satellite.

4 "Sensing device" means a device capable of acquiring data
5 or information from its surroundings, including but not limited
6 to:

7 (1) Cameras using any wavelength of the electromagnetic
8 spectrum, including visible, ultraviolet, or infrared
9 frequencies;

10 (2) Microphones;

11 (3) Thermal detectors;

12 (4) Chemical detectors;

13 (5) Radiation detectors;

14 (6) Facial recognition technology or other soft biometric
15 recognition technology;

16 (7) Laser radar; and

17 (8) Wireless receivers in any frequency.

18 "Unmanned aerial vehicle":

19 (1) Means a device used or designed for flight that is
20 operated without direct human intervention from on or
21 within the vehicle, and includes aircraft capable of
22 flight under autonomous programming; and



1 (2) Does not include model flying aircraft or rockets,
2 including those that are radio-controlled or otherwise
3 remotely controlled, are operated below four hundred
4 feet above ground level and in compliance with Federal
5 Aviation Administration requirements, and are used
6 purely for hobby, sport, or recreational purposes.

7 "Unmanned marine vehicle":

8 (1) Means a water craft operated under or on the surface
9 of the waters of the State without direct human
10 intervention from on or within the craft, and includes
11 water craft capable of operating under autonomous
12 programming; and

13 (2) Does not include model watercraft, including those
14 that are radio-controlled or otherwise remotely
15 controlled and are used purely for hobby, sport, or
16 recreational purposes.

17 § -2 **Compliance with applicable laws.** (a) No person
18 shall operate an unmanned aerial vehicle in the State:

19 (1) Without first obtaining the applicable Federal
20 Aviation Administration authorization to operate the
21 vehicle; or



1 (2) In a manner that does not comply with the terms and
2 conditions of the authorization.

3 (b) Any person operating an unmanned aerial vehicle in the
4 State shall do so in compliance with chapter 263 and all
5 applicable federal laws and Federal Aviation Administration
6 regulations relating to the operation of unmanned aircraft.

7 § -3 Department approval; data collection statement;

8 reporting. (a) No public agency shall acquire or operate a
9 remotely operated vehicle without first obtaining the approval
10 of the department.

11 (b) Any person who owns or operates a remotely operated
12 vehicle that is equipped with a sensing device shall file a data
13 collection statement with the department that includes:

14 (1) The time, location, and general manner of operation of
15 the remotely operated vehicle; and

16 (2) Actions that the operator will take to minimize the
17 unintentional collection of personal information.

18 (c) The director shall submit an annual report to the
19 legislature, no later than twenty days prior to the convening of
20 each regular session, that includes:



1 (1) The number of applications to acquire or operate a
2 remotely operated vehicle that were submitted to the
3 department by public agencies, including the:

4 (A) Number of application that were approved; and

5 (B) The justification for each approval; and

6 (2) The number of data collection statements filed with
7 the department.

8 (d) The director shall adopt rules pursuant to chapter 91
9 and prepare forms as necessary to effectuate the purposes of
10 this section.

11 § -4 Collection of information; distribution;

12 prohibition. (a) Except as provided in sections -5(b) and
13 -7, no person shall:

14 (1) Intentionally use a remotely operated vehicle to
15 collect personal information; or

16 (2) Publicly distribute or publish personal information
17 that is collected, whether intentionally or
18 unintentionally, by a remotely operated vehicle.

19 (b) No personal information collected on an individual
20 other than as provided in section -5(b) shall be copied, used,
21 or disclosed for any purpose, and any such personal information



1 shall be destroyed or deleted as soon as possible and in no
2 event later than twenty-four hours after collection.

3 § -5 Prohibited uses by law enforcement agencies. (a)

4 No law enforcement agency shall use a remotely operated vehicle
5 to gather evidence or other information pertaining to criminal
6 conduct or conduct in violation of a statute, ordinance, or
7 administrative rule.

8 (b) Notwithstanding subsection (a), a law enforcement
9 agency may deploy a remotely operated vehicle:

10 (1) When there is a reasonable belief that an emergency
11 situation exists, whether or not the situation
12 involves criminal activity, and the use of a remotely
13 operated vehicle is necessary to prevent immediate
14 danger of death or serious physical injury to any
15 person;

16 (2) To conduct a search and rescue operation where the use
17 of a remotely operated vehicle is determined to be
18 necessary to alleviate an immediate danger to any
19 person;

20 (3) To respond to a hostage situation; or

21 (4) To conduct training exercises related to any of the
22 purposes in paragraphs (1), (2), and (3).



1 § -6 **Information inadmissible as evidence.** No
2 information obtained or collected in violation of section -4
3 or -5 shall be admissible as evidence in a criminal
4 prosecution in any court of law of this State.

5 § -7 **Exceptions.** Nothing in this chapter shall prohibit
6 the use of remotely operated vehicles by a public agency:

- 7 (1) To conduct environmental or disaster response,
8 including but not limited to:
- 9 (A) Disaster relief;
 - 10 (B) Victim recovery or search and rescue; and
 - 11 (C) Monitoring, inspection, underwater repair, or
 - 12 structural damage 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; or
- 16 (5) For farming and agricultural uses; provided that no
17 remotely operated vehicle shall be used for
18 observation of a farm, dairy, or other agricultural
19 facility without the written consent of the owner of
20 the farm, dairy, or agricultural facility.

21 § -8 **Weapons; prohibited.** In no case shall a person or
22 public agency equip a remotely operated vehicle with a weapon or

1 deploy a remotely operated vehicle that is equipped with a
2 weapon in the State.

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

8 § -9 **Penalty.** A person who violates this chapter or any
9 rule adopted by the department pursuant to this chapter shall be
10 fined not more than \$2,500 for each separate offense. Each date
11 of violation shall constitute a separate offense. Any action
12 taken to impose or collect the penalty provided for in this
13 section shall constitute a civil action.

14 § -10 **Civil cause of action; remedies.** (a) An
15 individual shall have a civil cause of action against any law
16 enforcement agency, public agency, or other person that
17 collects, publishes, or distributes the person's personal
18 information in violation of this chapter.

19 (b) In any civil action brought under this section, if the
20 court finds a violation, the court may award:

21 (1) Injunctive relief;

22 (2) Equitable relief;



- 1 (3) Compensatory damages;
- 2 (4) Punitive damages, except as prohibited by section 662-
- 3 2;
- 4 (5) Costs of the action; and
- 5 (6) Reasonable attorney's fees."

6 SECTION 4. Chapter 183D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§183D- Hunting by remotely operated vehicle;
10 prohibited. (a) Except as provided in section -7, no person
11 shall use a remotely operated vehicle to hunt, take, kill,
12 capture, or incapacitate any wildlife or aquatic life on public
13 lands or in the waters of the State.

14 (b) In addition to any other penalty, any remotely
15 operated vehicle used in violation of this section may be seized
16 and forfeited pursuant to section 199-7.

17 (c) For the purpose of this section, "remotely operated
18 vehicle" shall have the same meaning as in section -1."

19 SECTION 5. Before January 1, 2015, the chief of police of
20 each county shall develop policies and guidelines that address
21 the operation and use of drones by each respective county police
22 department.



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: Alta A. Belletti

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JAN 16 2014



H.B. NO. 1775

Report Title:

Remotely Operated Vehicles; Unmanned Aerial Vehicles;
Restrictions on Use

Description:

Restricts the use of remotely operated vehicles, including restrictions on the collection of personal information and gathering of evidence by law enforcement agencies.

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