
A BILL FOR AN ACT

RELATING TO UNMANNED AIRCRAFT SYSTEMS.

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

1 SECTION 1. The legislature finds that technological
2 advances have provided new and unique equipment that may be utilized
3 for surveillance purposes. These technological advances often
4 outpace statutory protections and can lead to inconsistent or
5 contradictory interpretations between jurisdictions. The
6 legislature finds that regardless of application or size, the use of
7 unmanned aircraft systems or "drones", without public debate or clear
8 legal authority, creates uncertainty for citizens and agencies
9 throughout Hawaii. The legislature finds that drones present a
10 substantial privacy risk potentially contrary to the strong privacy
11 protections enshrined in the Hawaii State Constitution. The
12 legislature further finds that the lack of clear statutory
13 authority for the use of unmanned aircraft systems may increase
14 liability to state and local jurisdictions.

15 The purpose of this Act is to provide clear standards for the
16 lawful use of unmanned aircraft systems by state and local
17 jurisdictions.



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

4 "CHAPTER

5 UNMANNED AIRCRAFT SYSTEMS

6 § -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

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

12 "Biometric identification system" means technology that
13 collects unique physical and behavioral characteristics
14 including, but not limited to, biographical data, facial
15 photographs, fingerprints, and iris scans to identify
16 individuals.

17 "Law enforcement agency" means any county police
18 department, the department of public safety, and any state or
19 county public body that employs law enforcement officers.

20 "Person" includes any individual, corporation, partnership,
21 association, cooperative, limited liability company, trust, joint
22 venture, government, political subdivision, or any other legal or



1 commercial entity and any successor, representative, agent,
2 agency, or instrumentality thereof.

3 "Personal information" means all information that:

- 4 (1) Describes, locates, or indexes anything about a person
5 including, but not limited to, social security number,
6 driver's license number, agency-issued identification
7 number, student identification number, real or personal
8 property holdings derived from tax returns, educational
9 records, financial transactions, medical history,
10 ancestry, religion, political ideology, or criminal or
11 employment record;
- 12 (2) Affords a basis for inferring personal characteristics,
13 such as fingerprints, voice prints, photographs;
- 14 (3) Indicates a record of a person's presence,
15 registration, or membership in an organization or
16 activity, or admission to an institution; or
- 17 (4) Describes, locates, or indexes anything about a person
18 including, but not limited to, intellectual property,
19 trade secrets, proprietary information, or operational
20 information.



1 "Public unmanned aircraft system" means an unmanned aircraft
2 system operated by an agency or at the direction of or under the
3 control of an agency.

4 "Sensing device" means a device capable of acquiring data or
5 information from its surroundings including, but not limited to,
6 cameras using visible, ultraviolet, or infrared frequencies,
7 microphones, thermal detectors, chemical detectors, radiation
8 gauges, and wireless receivers in any frequency.

9 "Trade secret" means information, including a formula,
10 pattern, compilation, program device, method, technique, or
11 process that:

12 (1) Derives independent economic value, actual or
13 potential, from not being generally known to, and not
14 being readily ascertainable by proper means by, other
15 persons who can obtain economic value from its
16 disclosure or use; and

17 (2) Is the subject of efforts that are reasonable under the
18 circumstances to maintain its secrecy.

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



1 "Unmanned aircraft system" means an unmanned aircraft and
2 associated elements, including communication links and components
3 that control the unmanned aircraft that are required for the
4 pilot in command to operate safely and efficiently in the
5 national airspace system.

6 § -2 **Public unmanned aircraft system; prohibitions.**

7 Except as specifically authorized in this chapter, it shall be
8 unlawful to operate a public unmanned aircraft system or disclose
9 personal information about any person acquired through the
10 operation of a public unmanned aircraft system.

11 § -3 **Procurement of public unmanned aircraft system;**

12 **approval required.** (a) No state agency having jurisdiction over
13 criminal law enforcement or regulatory violations shall procure a
14 public unmanned aircraft system without the approval of the
15 legislature by concurrent resolution.

16 (b) No county agency having jurisdiction over criminal law
17 enforcement or regulatory violations shall procure a public
18 unmanned aircraft system without the approval of the respective
19 county council.

20 § -4 **Minimize collection of personal information.** All
21 operations of a public unmanned aircraft system or disclosure of
22 personal information about any person acquired through the



1 operation of a public unmanned aircraft system shall be conducted
2 in such a manner as to minimize the collection and disclosure of
3 personal information not authorized under this chapter.

4 § -5 Search warrant required. (a) A public unmanned
5 aircraft system may be operated and personal information from the
6 operation may be disclosed in order to collect personal
7 information only pursuant to a search criminal warrant
8 authorizing the use of the public unmanned aircraft system.

9 (b) Each application for a search warrant for the use of a
10 public unmanned aircraft system and personal information
11 collected from the operation shall be made in the county where
12 the public unmanned aircraft system is to be operated.

13 (c) A law enforcement officer applying for a search warrant
14 under this section shall submit an affidavit that includes:

15 (1) The identity of the applicant and the identity of the
16 agency conducting the investigation;

17 (2) The identity of the individual and jurisdictional area
18 for which use of the public unmanned aircraft is being
19 requested;

20 (3) Specific and articulable facts demonstrating probable
21 cause to believe that there is criminal activity and



1 that the operation of the public unmanned aircraft
2 system will uncover evidence of the activity; and

3 (4) The name of the county where there is probable cause to
4 believe that the offense for which use of the public
5 unmanned aircraft system is sought has been committed,
6 is being committed, or will be committed.

7 (d) If the judge or other magistrate finds, based on the
8 affidavit submitted, that there is probable cause to believe that
9 a crime has been committed, is being committed, or will be
10 committed and that there is probable cause to believe the
11 personal information likely to be obtained from the use of the
12 public unmanned aircraft system will be evidence of the
13 commission of the offense, the judge or other magistrate may
14 issue a search warrant authorizing than use of the public
15 unmanned aircraft system. The search warrant shall authorize the
16 collection of personal information contained in or obtained from
17 the public unmanned aircraft system but shall not authorize the
18 use of a biometric identification system.

19 (e) A search warrant shall not be issued for a period
20 greater than forty-eight hours. Extensions may be granted for no
21 longer than is deemed necessary to achieve the purposes for which
22 it was granted, and in no event for longer than thirty days.



1 (f) Within ten days of the execution of a search warrant,
2 the law enforcement officer executing the warrant shall serve a
3 copy of the warrant upon the person or persons upon whom personal
4 information was collected; provided that notice may be delayed
5 pursuant to section -6.

6 § -6 Search warrant; delay of notice. (a) A law
7 enforcement agency may include in an application for a search
8 warrant a request, which shall be granted, for an order delaying
9 the notification required under section -5(f) for a period not
10 to exceed ninety days if the judge or other magistrate determines
11 that there is a reason to believe that notification of the
12 existence of the warrant may have an adverse result.

13 (b) For the purposes of this section, an "adverse result"
14 means a situation that:

- 15 (1) Places the life or physical safety of an individual in
16 danger;
- 17 (2) Causes a person to flee from prosecution;
- 18 (3) Causes the destruction of or tampering with evidence;
- 19 (4) Causes the intimidation of potential witnesses; or
- 20 (5) Jeopardizes an investigation or unduly delays a trial.



1 (c) A judge or other magistrate may extend a delay of
2 notification for up to ninety days upon application or by
3 certification by a law enforcement agency.

4 (d) Upon expiration of the period of delay of notification
5 the law enforcement agency shall serve a copy of the warrant upon
6 the person or persons upon whom personal information was
7 collected together with notice that:

8 (1) States with reasonable specificity the nature of the
9 law enforcement inquiry; and

10 (2) Informs the person or persons upon whom personal
11 information was collected that notification was
12 delayed.

13 § -7 Emergency situation; exception to search warrant

14 requirement. (a) Nothing in this chapter shall prohibit a law
15 enforcement agency from operating a public unmanned aircraft
16 system and disclosing personal information from the operation if
17 it is determined that an emergency situation exists and:

18 (1) The emergency situation that involves immediate danger
19 of death or serious physical injury to any person;

20 (2) The emergency situation requires operation of a public
21 unmanned aircraft system before a search warrant can,
22 with due diligence, be obtained; and



1 (3) There exist grounds upon which a search warrant could
2 be issued to authorize the operation; and

3 (4) An application for a search warrant is made within
4 forty-eight hours after the operation has occurred or
5 begins to occur.

6 (b) In the absence of a search warrant, an operation of a
7 public unmanned aircraft system carried out under this subsection
8 shall terminate immediately when the personal information sought
9 is obtained or when the application for the search warrant is
10 denied, whichever is earlier.

11 (c) If an application for a search warrant made under
12 subsection (a)(4) is denied, the personal information obtained
13 from the operation of the public unmanned aircraft system shall
14 be treated as having been obtained in violation of this section
15 and an inventory of the personal information collected shall be
16 served on the person named in the application.

17 § -8 Evidence. No personal information obtained or
18 collected in violation of this chapter shall be admissible as
19 evidence in a criminal prosecution in any court of law of this
20 State.

21 § -9 Disclosure of personal information. (a) No personal
22 information collected other than as provided in sections -5



1 and -7 shall be used, copied, or disclosed for any purpose and
2 shall be deleted as soon as possible, and in no event later than
3 twenty-four hours after collection.

4 § -10 **Compliance with applicable laws.** Any use of an
5 unmanned aircraft system in the State shall comply with
6 applicable federal laws and Federal Aviation Administration
7 requirements and guidelines.

8 § -11 **Annual report.** By July 1 of each year, each law
9 enforcement agency that applied for a search warrant for the use
10 of a public unmanned aircraft system shall report the following
11 information to the legislature:

12 (1) The number of search warrants and extensions that were
13 requested and the number of search warrants and
14 extensions that were issued;

15 (2) A general description of the information gathered under
16 search warrants or extensions including:

17 (A) The approximate nature and frequency of
18 incriminating conduct gathered;

19 (B) The approximate number of persons upon whom
20 information was gathered; and



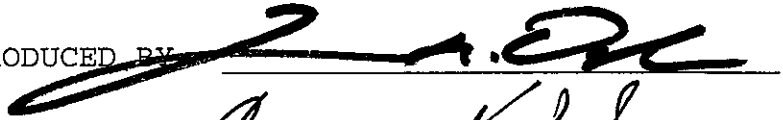
- 1 (C) The approximate nature, amount, and cost of the
2 manpower and other resources used in the
3 collection;
- 4 (3) The number of arrests resulting from information
5 gathered under a search warrant or extension and the
6 offenses for which arrests were made;
- 7 (4) The number of trials resulting from the information;
- 8 (5) The number of motions to suppress made with respect to
9 the information and the number granted or denied;
- 10 (6) The number of convictions resulting from the
11 information and the offenses for which the convictions
12 were obtained and a general assessment of the
13 importance of the information; and
- 14 (7) The overall cost to the agency of acquiring,
15 maintaining, and operating a public unmanned aircraft
16 system.
- 17 § -12 **Agency policies.** By July 1, 2015, each state law
18 enforcement agency and each county police department shall
19 establish policies and procedures for the use of public unmanned
20 aircraft systems."

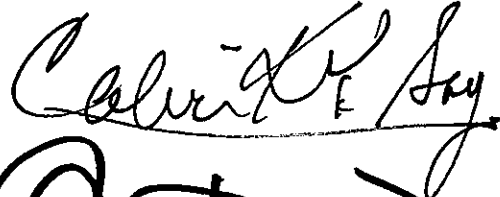


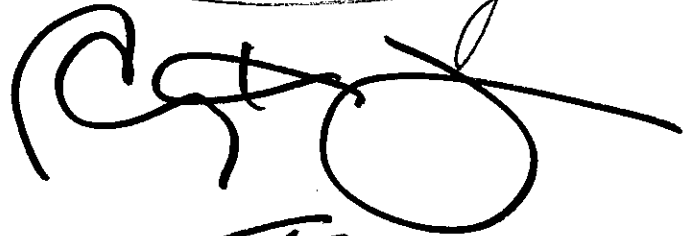
1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY









JAN 17 2014



H.B. NO. 1827

Report Title:

Unmanned Aircraft Systems

Description:

Establishes restrictions on the operation of unmanned aircraft systems.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

