

JAN 16 2014

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# A BILL FOR AN ACT

RELATING TO PRIVACY.

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

1           SECTION 1. Chapter 803, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           "PART V. FREEDOM FROM UNWARRANTED SURVEILLANCE ACT

5 §803-       DEFINITIONS. As used in this act, the term: (a)

6 "Unmanned aircraft system" means a powered, aerial vehicle that:

- 7           (1) Does not carry a human operator;
- 8           (2) Uses aerodynamic forces to provide vehicle lift;
- 9           (3) Can fly autonomously or be piloted remotely;
- 10          (4) Can be expendable or recoverable; and
- 11          (5) Can or cannot carry a lethal or nonlethal
- 12          payload;

13          (b) "Unmanned aircraft system" does not include:

- 14           (1) Model flying airplanes or rockets including, but
- 15           not necessarily limited to, those that are radio
- 16           controlled or otherwise remotely controlled and that
- 17           are used purely for sport or recreational purpose,
- 18           except when fitted with an active recording device;



- 1           (2) An unmanned aircraft system used by a state
- 2           agency, for the purposes of mapping or resource
- 3           management; or
- 4           (3) Satellites.

5           (c) "Law enforcement agency" means a lawfully established  
6 state or local public agency that is responsible for the  
7 prevention and detection of crime, local government code  
8 enforcement, and the enforcement of penal, traffic, regulatory,  
9 game, or controlled substance laws.

10 **§803- PROHIBITED USE OF UNMANNED AIRCRAFT SYSTEMS.** No law  
11 enforcement agency, person, entity, or state or local public  
12 agency may use a unmanned aircraft system to gather evidence or  
13 other information including but not limited to sound waves,  
14 recordings, images or photographs on:

- 15           (a) A person without the person's consent;
- 16           (b) A person's property without the person's consent; or
- 17           (c) Proprietary information without the owner's consent.

18 **§803- EXCEPTIONS.** This act does not prohibit the use of an  
19 unmanned aircraft system:

- 20           (a) To counter a high risk of a terrorist attack by a
- 21 specific individual or organization if the United States



1 Secretary of Homeland Security determines that credible  
2 intelligence indicates that there is such a risk.

3 (b) If the law enforcement agency first obtains a search  
4 warrant signed by a judge authorizing the use of a unmanned  
5 aircraft system.

6 (c) If the law enforcement agency possesses reasonable  
7 suspicion that, under particular circumstances, swift action is  
8 needed to prevent imminent danger to life or serious damage to  
9 property, to forestall the imminent escape of a suspect or the  
10 destruction of evidence, or to achieve purposes including, but  
11 not limited to, facilitating the search for a missing person.

12 (d) In accordance with judicially recognized exceptions to  
13 the warrant requirement.

14 (e) If the relevant person or entity who is the subject of  
15 the prohibited conduct under section(3) above consents in  
16 writing, however, such consent may not be used to excuse or  
17 justify violations against third parties.

18 (f) If the unmanned aircraft system is used by a state  
19 agency or local public agency, for the purposes of mapping or  
20 resource management.



1 (g) If the unmanned aircraft system is used in airspace  
2 designated as a test site or range of the Federal Aviation  
3 Administration for the purposes of training.

4 (h) As part of an operation, exercise, or mission of any  
5 branch of the United State military.

6 §803- **REMEDIES FOR VIOLATION.** An aggrieved party may  
7 initiate a civil action to:

8 (a) Obtain all appropriate relief including but not limited  
9 to equitable relief in order to prevent or remedy a violation of  
10 this act; and

11 (b) Be entitled to recover from any such person, entity,  
12 state agency or local public agency damages in the amount of the  
13 greater of one thousand dollars (\$1,000) or actual and general  
14 damages, plus reasonable attorney's fees and other litigation  
15 costs reasonably incurred.

16 (c) If evidence or information gathered by use of a  
17 prohibited use of an unmanned aircraft system is publicly  
18 displayed or publicly disclosed the aggrieved party will be  
19 entitled to recover from such person, entity, state agency or  
20 local public agency damages in the amount of the greater of ten  
21 thousand dollars (\$10,000) or actual and general damages, plus



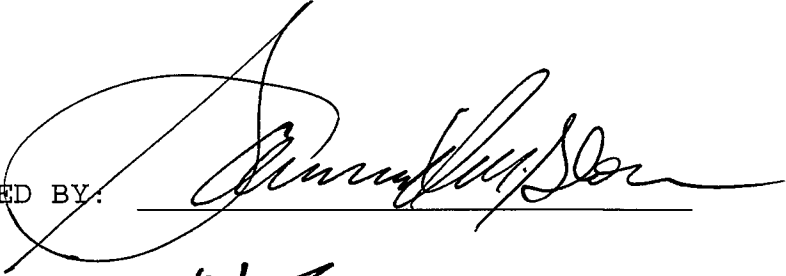
1 reasonable attorney's fees and other litigation costs reasonably  
2 incurred.

3 §803- PROHIBITION ON USE OF EVIDENCE. Evidence obtained or  
4 collected in violation of this act is not admissible as evidence  
5 in a criminal prosecution or civil action in any court of law in  
6 this state except if used in prosecuting a cause of action  
7 against a person who is in violation of this act or for breaches  
8 of privacy or nuisance laws using UAS."





9 Section 2. This act shall take effect on July 1, 2014.

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INTRODUCED BY: 

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# S.B. NO. 2150

**Report Title:**

Unwarranted Surveillance; unmanned aircraft system prohibitions and exceptions

**Description:**

An act relating to searches and seizures; creating the "Freedom from Unwarranted Surveillance Act"; defining the terms "unmanned aircraft system" and "law enforcement agency"; prohibiting a law enforcement agency, person, entity, state or local public agency from using a unmanned aircraft system to gather evidence or other information; providing exceptions; authorizing an aggrieved party to initiate a civil action in order to prevent or remedy a violation of the act; prohibiting a law enforcement agency from using in any court of law in this state evidence obtained or collected in violation of the act; providing an effective date.

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

