
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 the widespread and
2 unregulated use of unmanned aircraft systems, which are also
3 known as drones, has created a dangerous situation in the sky
4 and has far surpassed the government's current ability to ensure
5 a safe environment for everyone.

6 The purpose of this Act is to regulate unmanned aircraft
7 systems in the State by creating the offenses of violation of
8 privacy through use of an unmanned aircraft system in the first
9 and second degree.

10 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
11 amended by adding two new sections to be appropriately
12 designated and to read as follows:

13 "§711- Violation of privacy through use of an unmanned
14 aircraft system in the first degree. (1) A person commits the
15 offense of violation of privacy through use of an unmanned
16 aircraft system in the first degree if a person intentionally or
17 knowingly uses an unmanned aircraft system to capture an image



1 of an individual or privately owned real property in this State
2 with the intent to conduct surveillance on another person in a
3 stage of undress or sexual activity without the consent of the
4 person or property captured in the image.

5 (2) Violation of privacy through use of an unmanned
6 aircraft system in the first degree is a class C felony.

7 (3) Subsection (1) shall not apply when capturing an image
8 using an unmanned aircraft system in this State for the
9 following purposes:

10 (a) Authorized activities by the United States Department
11 of Defense or the United States Department of Homeland
12 Security in their official capacity as part of an
13 operation, exercise, mission, testing, or training;

14 (b) If the image is captured by a law enforcement
15 authority or a person who is under contract with or
16 otherwise acting under the direction or on behalf of a
17 law enforcement authority:

18 (i) In the immediate pursuit of a person law
19 enforcement officers have reasonable suspicion or
20 probable cause to suspect has committed a



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- 1 criminal offense, not including misdemeanors or
2 petty misdemeanors;
- 3 (ii) For the purpose of documenting a crime scene
4 where an offense, not including misdemeanors,
5 petty misdemeanors, or offenses punishable by a
6 fine, has been committed; or
- 7 (iii) For the purpose of investigating the scene of a
8 human fatality, a motor vehicle accident causing
9 death or serious bodily injury to a person, or
10 any motor vehicle accident on a state highway or
11 federal highway;
- 12 (c) With the consent of the person who owns or lawfully
13 occupies the real property captured in the image;
- 14 (d) In airspace designated as a test site or range
15 authorized by the Federal Aviation Administration for
16 the purpose of integrating unmanned aircraft systems
17 into the national airspace;
- 18 (e) If the image is captured by a satellite for the
19 purposes of mapping;



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- 1 (f) If the image is captured by or for an electric or
2 natural gas utility for the purpose of:
- 3 (i) Maintaining the utility systems' reliability and
4 integrity;
- 5 (ii) Inspecting the utility facilities to determine
6 repair, maintenance, or replacement needs during
7 and after construction of such facilities;
- 8 (iii) Assessing vegetation growth for the purpose of
9 maintaining clearances on utility easements; or
- 10 (iv) Routing and siting of a utility facility for the
11 purpose of providing utility service;
- 12 (g) For the purposes of professional or scholarly research
13 and development by a person acting on behalf of an
14 institution of higher education, including a person
15 who is:
- 16 (i) A professor, employee, or student of the
17 institution; or
- 18 (ii) Under contract with or otherwise acting under the
19 direction or on behalf of the institution;
- 20 (h) Pursuant to a valid search or arrest warrant;



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- 1 (i) In connection with the search for a missing person;
- 2 (j) For the purpose of conducting a high-risk tactical
3 operation that poses a threat to human life;
- 4 (k) On private property that is generally open to the
5 public where the property owner consents to law
6 enforcement public safety responsibilities;
- 7 (l) If the image is captured by state or local law
8 enforcement authorities, or a person who is under
9 contract with or otherwise acting under the direction
10 of or on behalf of state authorities, for the purpose
11 of:
 - 12 (i) Surveying the scene of a catastrophe or other
13 damage to determine whether a state of emergency
14 should be declared;
 - 15 (ii) Preserving public safety, protecting property, or
16 surveying damage or contamination during a
17 lawfully declared state of emergency; or
 - 18 (iii) Conducting routine air quality sampling
19 monitoring, as provide by state or local law;



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1 (m) At the scene of a spill, suspected spill, or hazardous
2 materials incident;

3 (n) For the purpose of fire suppression;

4 (o) For the purpose of rescuing a person whose life or
5 well-being is in imminent danger;

6 (p) If the image is captured by a Hawaii licensed real
7 estate broker in connection with the marketing, sale,
8 or financing of real property; provided that no
9 individual is identifiable in the image;

10 (q) In connection with the department of transportation
11 surveillance and security; or

12 (r) In connection with the manufacture, assembly,
13 distribution, or sale of an unmanned aircraft system.

14 **§711- Violation of privacy through use of an unmanned**
15 **aircraft system in the second degree. (1) A person commits the**
16 **offense of violation of privacy through use of an unmanned**
17 **aircraft system in the second degree if:**

18 (a) A person intentionally or knowingly uses an unmanned
19 aircraft system to observe or view an individual or
20 privately owned real property in this State with the



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1 intent to conduct surveillance of another person in a
2 stage of undress or sexual activity without the
3 consent of the person or persons; or

4 (b) A person knowingly uses an image taken during a
5 military operation, exercise, or mission conducted by
6 any branch of the United States military without valid
7 authorization.

8 (2) Violation of privacy through use of an unmanned
9 aircraft system in the second degree is a misdemeanor.

10 (3) Subsection (1) shall not apply when capturing an image
11 using an unmanned aircraft system in this State for the
12 following purposes:

13 (a) Authorized activities by the United States Department
14 of Defense or the United States Department of Homeland
15 Security in their official capacity as part of an
16 operation, exercise, mission, testing, or training;

17 (b) If the image is captured by a law enforcement
18 authority or a person who is under contract with or
19 otherwise acting under the direction or on behalf of a
20 law enforcement authority:



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- 1 (i) In the immediate pursuit of a person law
2 enforcement officers have reasonable suspicion or
3 probable cause to suspect has committed a
4 criminal offense, not including misdemeanors or
5 petty misdemeanors;
- 6 (ii) For the purpose of documenting a crime scene
7 where an offense, not including misdemeanors,
8 petty misdemeanors, or offenses punishable by a
9 fine, has been committed; or
- 10 (iii) For the purpose of investigating the scene of a
11 human fatality, a motor vehicle accident causing
12 death or serious bodily injury to a person, or
13 any motor vehicle accident on a state highway or
14 federal highway;
- 15 (c) With the consent of the person who owns or lawfully
16 occupies the real property captured in the image;
- 17 (d) In airspace designated as a test site or range
18 authorized by the Federal Aviation Administration for
19 the purpose of integrating unmanned aircraft systems
20 into the national airspace;



- 1 (e) If the image is captured by a satellite for the
2 purposes of mapping;
- 3 (f) If the image is captured by or for an electric or
4 natural gas utility for the purpose of:
 - 5 (i) Maintaining the utility systems' reliability and
6 integrity;
 - 7 (ii) Inspecting the utility facilities to determine
8 repair, maintenance, or replacement needs during
9 and after construction of such facilities;
 - 10 (iii) Assessing vegetation growth for the purpose of
11 maintaining clearances on utility easements; or
 - 12 (iv) Routing and siting of a utility facility for the
13 purpose of providing utility service;
- 14 (g) For the purposes of professional or scholarly research
15 and development by a person acting on behalf of an
16 institution of higher education, including a person
17 who is:
 - 18 (i) A professor, employee, or student of the
19 institution; or



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- 1 (ii) Under contract with or otherwise acting under the
- 2 direction or on behalf of the institution;
- 3 (h) Pursuant to a valid search or arrest warrant;
- 4 (i) In connection with the search for a missing person;
- 5 (j) For the purpose of conducting a high-risk tactical
- 6 operation that poses a threat to human life;
- 7 (k) On private property that is generally open to the
- 8 public where the property owner consents to law
- 9 enforcement public safety responsibilities;
- 10 (l) If the image is captured by state or local law
- 11 enforcement authorities, or a person who is under
- 12 contract with or otherwise acting under the direction
- 13 of or on behalf of state authorities, for the purpose
- 14 of:
- 15 (i) Surveying the scene of a catastrophe or other
- 16 damage to determine whether a state of emergency
- 17 should be declared;
- 18 (ii) Preserving public safety, protecting property, or
- 19 surveying damage or contamination during a
- 20 lawfully declared state of emergency; or



- 1 (iii) Conducting routine air quality sampling
2 monitoring, as provide by state or local law;
- 3 (m) At the scene of a spill, suspected spill, or hazardous
4 materials incident;
- 5 (n) For the purpose of fire suppression;
- 6 (o) For the purpose of rescuing a person whose life or
7 well-being is in imminent danger;
- 8 (p) If the image is captured by a Hawaii licensed real
9 estate broker in connection with the marketing, sale,
10 or financing of real property; provided that no
11 individual is identifiable in the image;
- 12 (q) In connection with the department of transportation
13 surveillance and security; or
- 14 (r) In connection with the manufacture, assembly,
15 distribution, or sale of an unmanned aircraft system."

16 SECTION 3. Section 711-1110, Hawaii Revised Statutes, is
17 amended by adding two new definitions to be appropriately
18 inserted and to read as follows:

19 "Image" means any capturing of sound waves, thermal,
20 infrared, ultraviolet, visible light, or other electromagnetic



1 waves, odor, or other conditions existing on or about real
2 property in this State or an individual located on that
3 property.

4 "Unmanned aircraft systems" means a drone or any object
5 that is a system consisting of an unmanned aircraft that is
6 remotely controlled, usually from the ground, but may also be
7 remotely controlled from a manned aircraft, by use of data links
8 and onboard sensors."

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. New statutory material is underscored.

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

14

INTRODUCED BY:

George Robinson G/R

JAN 15 2016



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Report Title:

Unmanned Aircraft System; Drone; Violation of Privacy;
Exceptions

Description:

Creates offenses of violation of privacy through use of an
unmanned aircraft system in the first and second degree.

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

