

JAN 29 2015

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 and



- 1 recording or surveillance into or over private
- 2 property without consent of the property owner;
- 3 (2) An unmanned aircraft system used by a state
- 4 agency, for the purposes of mapping or resource
- 5 management; or
- 6 (3) Satellites.

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

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

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

20 **§803- EXCEPTIONS.** This act does not prohibit the use of an
21 unmanned aircraft system:

1 (a) To counter a high risk of a terrorist attack by a
2 specific individual or organization if the United States
3 Secretary of Homeland Security determines that credible
4 intelligence indicates that there is such a risk.

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

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

14 (d) In accordance with judicially recognized exceptions to
15 the warrant requirement.

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

20 (f) If the unmanned aircraft system is used by a state
21 agency or local public agency, for the purposes of mapping or
22 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
9 limited to, equitable relief in order to prevent or remedy a
10 violation of 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 any cause of action
7 against a person who is in violation of this act or for breaches
8 of privacy or nuisance laws using an unmanned aircraft system."

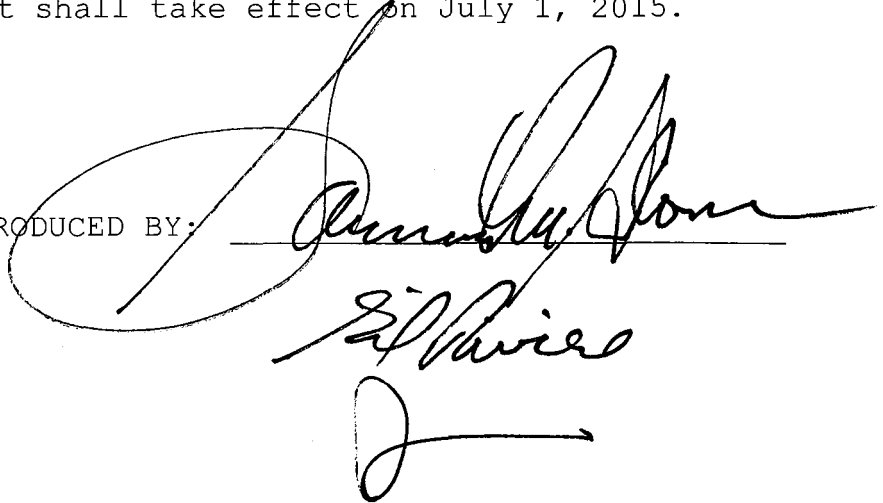
9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This act shall take effect on July 1, 2015.

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INTRODUCED BY:

The image shows three handwritten signatures in black ink. The top signature is the largest and most prominent, followed by a smaller signature below it, and a third, even smaller signature at the bottom. The signatures are written over a horizontal line that follows the text 'INTRODUCED BY:'.

S.B. NO. 1329

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 an 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.

