

1 "Department" means the department of commerce and consumer
2 affairs.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Operator" means any person using or operating an unmanned
6 aerial vehicle.

7 "Personal information" means all information that:

8 (1) Describes, locates, or indexes information or data
9 relating to a person, including but not limited to
10 physical location, social security number, driver's
11 license number, government-issued identification
12 number, student identification number, real or
13 personal property holdings identified in tax filings,
14 educational records, financial transactions, medical
15 history, ancestry, religious affiliation, political
16 ideology or affiliation, criminal record, or
17 employment history;

18 (2) Affords a basis for inferring personal
19 characteristics, such as facial recognition and other
20 biometric identification technology, fingerprints,
21 voiceprints, or photographs; or



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

4 "Unmanned aerial vehicle" means a powered vehicle that does
 5 not carry a human operator, uses aerodynamic forces to provide
 6 vehicle lift, can fly autonomously or be piloted remotely, and
 7 can be expendable or recoverable. "Unmanned aerial vehicle"
 8 does not include a remote controlled airplane.

9 § -2 Powers and duties of the director. In addition to
 10 any other powers and duties authorized by law, the director
 11 shall:

- 12 (1) Adopt, amend, or repeal rules as the director deems
 13 proper to fully effectuate this chapter;
- 14 (2) Impose a fine on an operator for any cause prescribed
 15 by this chapter, or for any violation of this chapter
 16 or any rule adopted pursuant to this chapter; and
- 17 (3) Investigate the use of any unmanned aerial vehicle
 18 reported to be in violation of this chapter or any
 19 rule adopted pursuant to this chapter.

20 § -3 Prohibited acts; penalty. (a) No person shall
 21 operate an unmanned aerial vehicle:



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- 1 (1) In violation of chapter 263 or any applicable federal
- 2 law and Federal Aviation Administration regulations
- 3 relating to the operation of unmanned aerial vehicles;
- 4 (2) Within five miles of an airport;
- 5 (3) Within five hundred feet of an emergency response
- 6 vehicle or first responder during an emergency, unless
- 7 the unmanned aerial vehicle is operated pursuant to
- 8 section -4(b);
- 9 (4) To intentionally collect personal information or
- 10 intentionally publish or distribute personal
- 11 information acquired through the operation of an
- 12 unmanned aerial vehicle without express written
- 13 consent from the person whose personal information is
- 14 acquired;
- 15 (5) At an altitude higher than four hundred feet above
- 16 ground level;
- 17 (6) Outside the visual line of sight of the operator. The
- 18 operator shall use natural vision to maintain at all
- 19 times an unobstructed view of the unmanned aerial
- 20 vehicle without the use of vision enhancing devices,
- 21 including but not limited to binoculars, night vision



- 1 goggles, powered vision magnifying devices, or similar
- 2 devices;
- 3 (7) In a manner that interferes with, or fails to give way
- 4 to, any manned aircraft;
- 5 (8) Whenever weather conditions impair the operator's
- 6 ability to safely operate the unmanned aerial vehicle;
- 7 (9) Over any open air assembly unit, school, school yard,
- 8 hospital, place of worship, prison, or police station
- 9 without the property owner's written consent and
- 10 subject to any restrictions that the property owner
- 11 may impose on the operation of the unmanned aerial
- 12 vehicle;
- 13 (10) (A) Within five hundred feet of any water intake
- 14 facility or any electric generating facility,
- 15 substation, or control center;
- 16 (B) Within one hundred feet of any electric
- 17 transmission facility; or
- 18 (C) Within twenty-five feet of any electric
- 19 distribution facility or of any overhead cable,
- 20 wire, conveyor, or similar equipment for the
- 21 transmission of sounds or signals, or of heat,



1 light, or power, or of data, upon or along any
2 public way within the city,
3 without the facility or equipment owner's written
4 consent and subject to any restrictions that the
5 facility or equipment owner may impose on the
6 operation of the unmanned aerial vehicle;

7 (11) While under the influence of any intoxicating liquor
8 as defined in section 281-1, intoxicating compound as
9 defined in section 712-1240, or other drug, or any
10 combination thereof;

11 (12) With the intent to use the unmanned aerial vehicle or
12 anything attached to it to cause harm to persons or
13 property;

14 (13) In a reckless or careless manner; or

15 (14) In violation of any federal or state law.

16 (b) All data and personal information collected through
17 the use of an unmanned aerial vehicle shall not be used or
18 repurposed for any purpose other than the original purpose for
19 which the data or personal information was collected.



1 (c) Any person who operates an unmanned aerial vehicle in
2 violation of this chapter shall pay a civil penalty of
3 \$ for each separate offense.

4 (d) All penalties collected by the department shall be
5 deposited into the compliance resolution fund under section
6 26-9(o) for the purpose of enforcing this chapter.

7 § -4 Prohibited uses by law enforcement agencies;
8 exceptions. (a) No law enforcement agency shall use an
9 unmanned aerial vehicle to gather evidence or other information
10 pertaining to criminal conduct or conduct in violation of a
11 statute, ordinance, or administrative rule without first
12 obtaining a warrant.

13 (b) Notwithstanding subsection (a) and in addition to the
14 authorized activities under section -5, a law enforcement or
15 public safety agency may deploy an unmanned aerial vehicle for
16 the following purposes:

17 (1) When there is a reasonable belief that an emergency
18 situation exists, whether or not the situation
19 involves criminal activity, and the use of an unmanned
20 aerial vehicle is necessary to prevent immediate



- 1 danger of death or serious physical injury to any
2 person;
- 3 (2) To conduct a search and rescue operation where the use
4 of an unmanned aerial vehicle is determined to be
5 necessary to alleviate an immediate danger to any
6 person;
- 7 (3) To respond to a hostage situation; or
- 8 (4) To conduct training exercises related to any of the
9 purposes in this subsection.
- 10 § -5 Public agency exceptions. Nothing in this chapter
11 shall prohibit the use of unmanned aerial vehicles by a public
12 agency:
- 13 (1) To conduct environmental or disaster response,
14 including but not limited to disaster relief, victim
15 recovery or search and rescue, and monitoring,
16 inspection, underwater repair, or structural damage
17 assessments;
- 18 (2) To dispose of a suspected or actual explosive device;
- 19 (3) To monitor plant or animal populations;
- 20 (4) To conduct atmospheric testing or monitoring;
- 21 (5) For farming and agricultural uses;



- 1 (6) To review traffic congestion and conditions;
- 2 (7) To survey or inspect public lands and property; or
- 3 (8) To survey the ocean and coastline.

4 § -6 Weapons; prohibited. In no case shall a person or
5 public agency equip an unmanned aerial vehicle with a weapon or
6 deploy an unmanned aerial vehicle that is equipped with a
7 weapon.

8 For the purpose of this section, "weapon" means any device
9 designed to harm or incapacitate a human being by use of a
10 projectile, explosive, biological or chemical agent,
11 electricity, visible or invisible directed energy, radiation, or
12 any other means.

13 § -7 Civil cause of action; remedies. (a) An
14 individual shall have a civil cause of action against any person
15 that collects, publishes, or distributes the individual's
16 personal information in violation of this chapter.

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

- 19 (1) Injunctive relief;
- 20 (2) Equitable relief;
- 21 (3) Compensatory damages;



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

5 SECTION 3. Chapter 711, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 "§711- Unmanned aerial vehicles; prohibited acts. (1)
9 It shall be unlawful for any person to intentionally, knowingly,
10 or recklessly use an unmanned aerial vehicle to record or
11 photograph a person in a private place without the consent of
12 the person for the purpose of spying on the person or invading
13 the privacy of another person with an unlawful purpose, under
14 circumstances in which a reasonable person in the private place
15 would not expect to be observed.

16 (2) Violation of this section is a misdemeanor. In
17 addition to any penalties the court may impose, the court may
18 order the destruction of any recording or photograph made in
19 violation of this section."

20 SECTION 4. Section 711-1100, Hawaii Revised Statutes, is
21 amended as follows:



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1 1. By adding a new definition to be appropriately inserted
2 and to read:

3 "Unmanned aerial vehicle" means a powered vehicle that
4 does not carry a human operator, uses aerodynamic forces to
5 provide vehicle lift, can fly autonomously or be piloted
6 remotely, and can be expendable or recoverable."

7 2. By amending the definition of "record" to read:

8 "Record", for the purposes of sections 711-1110.9 [and],
9 711-1111, and 711-_____, means to videotape, film, photograph, or
10 archive electronically or digitally."

11 SECTION 5. Section 711-1110.9, Hawaii Revised Statutes, is
12 amended by amending subsection (1) to read as follows:

13 "(1) A person commits the offense of violation of privacy
14 in the first degree if, except in the execution of a public duty
15 or as authorized by law:

16 (a) The person intentionally or knowingly installs or
17 uses, or both, in any private place, without consent
18 of the person or persons entitled to privacy therein,
19 any device, including an unmanned aerial vehicle, for
20 observing, recording, amplifying, or broadcasting



1 another person in a stage of undress or sexual
2 activity in that place; or
3 (b) The person knowingly discloses an image or video of
4 another identifiable person either in the nude, as
5 defined in section 712-1210, or engaging in sexual
6 conduct, as defined in section 712-1210, without the
7 consent of the depicted person, with intent to harm
8 substantially the depicted person with respect to that
9 person's health, safety, business, calling, career,
10 financial condition, reputation, or personal
11 relationships; provided that:
12 (i) This paragraph shall not apply to images or
13 videos of the depicted person made:
14 (A) When the person was voluntarily nude in
15 public or voluntarily engaging in sexual
16 conduct in public; or
17 (B) Pursuant to a voluntary commercial
18 transaction; and
19 (ii) Nothing in this paragraph shall be construed to
20 impose liability on a provider of "electronic
21 communication service" or "remote computing



1 service" as those terms are defined in section
2 803-41, for an image or video disclosed through
3 the electronic communication service or remote
4 computing service by another person."

5 SECTION 6. Section 711-1111, Hawaii Revised Statutes, is
6 amended by amending subsection (1) to read as follows:

7 "(1) A person commits the offense of violation of privacy
8 in the second degree if, except in the execution of a public
9 duty or as authorized by law, the person intentionally:

10 (a) Trespasses on property for the purpose of subjecting
11 anyone to eavesdropping or other surveillance in a
12 private place;

13 (b) Peers or peeps into a window or other opening of a
14 dwelling or other structure adapted for sojourn or
15 overnight accommodations for the purpose of spying on
16 the occupant thereof or invading the privacy of
17 another person with a lewd or unlawful purpose, under
18 circumstances in which a reasonable person in the
19 dwelling or other structure would not expect to be
20 observed;



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- 1 (c) Trespasses on property for the sexual gratification of
2 the actor;
- 3 (d) Installs or uses, or both, in any private place,
4 without consent of the person or persons entitled to
5 privacy therein, any means or device, including an
6 unmanned aerial vehicle, for observing, recording,
7 amplifying, or broadcasting sounds or events in that
8 place other than another person in a stage of undress
9 or sexual activity;
- 10 (e) Installs or uses outside a private place any device,
11 including an unmanned aerial vehicle, for hearing,
12 recording, amplifying, or broadcasting sounds
13 originating in that place which would not ordinarily
14 be audible or comprehensible outside, without the
15 consent of the person or persons entitled to privacy
16 therein;
- 17 (f) Covertly records or broadcasts an image of another
18 person's intimate area underneath clothing, by use of
19 any device, including an unmanned aerial vehicle, and
20 that image is taken while that person is in a public
21 place and without that person's consent;

- 1 (g) Intercepts, without the consent of the sender or
2 receiver, a message or photographic image by
3 telephone, telegraph, letter, electronic transmission,
4 or other means of communicating privately; but this
5 paragraph does not apply to:
- 6 (i) Overhearing of messages through a regularly
7 installed instrument on a telephone party line or
8 an extension; or
- 9 (ii) Interception by the telephone company, electronic
10 mail account provider, or telephone or electronic
11 mail subscriber incident to enforcement of
12 regulations limiting use of the facilities or
13 incident to other operation and use;
- 14 (h) Divulges, without the consent of the sender or the
15 receiver, the existence or contents of any message or
16 photographic image by telephone, telegraph, letter,
17 electronic transmission, or other means of
18 communicating privately, if the accused knows that the
19 message or photographic image was unlawfully
20 intercepted or if the accused learned of the message



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1 or photographic image in the course of employment with
 2 an agency engaged in transmitting it; or

3 (i) Knowingly possesses materials created under
 4 circumstances prohibited in section 711-1110.9."

5 SECTION 7. This Act does not affect rights and duties that
 6 matured, penalties that were incurred, and proceedings that were
 7 begun before its effective date.

8 SECTION 8. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect upon its approval.

11

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Report Title:

Department of Commerce and Consumer Affairs; Unmanned Aerial Vehicles; Restrictions on Use; Violation of Privacy

Description:

Establishes restrictions on use of unmanned aerial vehicles. Amends the offenses of violation of privacy in the first and second degrees to specifically address the use of unmanned aerial vehicles in the commission of these offenses.

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