

- 1 ideology or affiliation, criminal record, or
- 2 employment history;
- 3 (2) Affords a basis for inferring personal
- 4 characteristics, such as facial recognition and other
- 5 biometric identification technology, fingerprints,
- 6 voiceprints, or photographs; or
- 7 (3) Indicates a person's membership in or association with
- 8 an organization, participation in an activity, or
- 9 admission or entrance to an institution or facility.

10 "Unmanned aerial vehicle" means a powered vehicle that does
11 not carry a human operator, uses aerodynamic forces to provide
12 vehicle lift, can fly autonomously or be piloted remotely, and
13 can be expendable or recoverable.

14 § -2 Prohibited acts. (a) No person or public agency
15 shall operate an unmanned aerial vehicle:

- 16 (1) In violation of chapter 263 or any applicable federal
- 17 law and Federal Aviation Administration regulations
- 18 relating to the operation of unmanned aerial vehicles;
- 19 (2) At a height of less than twenty-five feet above a
- 20 residential property without express permission from
- 21 the property owner or tenant; or



1 (3) To intentionally collect personal information or
2 intentionally publish or distribute personal
3 information acquired through the operation of an
4 unmanned aerial vehicle without express written
5 consent from the individual whose personal information
6 is acquired.

7 (b) All data and personal information collected through
8 the use of an unmanned aerial vehicle shall not be used or
9 repurposed for any reason other than the original purpose for
10 which the data or personal information was collected.

11 § -3 Prohibited uses by law enforcement agencies;
12 exceptions. (a) No law enforcement agency shall use an
13 unmanned aerial vehicle to gather evidence or other information
14 pertaining to criminal conduct or conduct in violation of a
15 statute, ordinance, or administrative rule without first
16 obtaining a warrant.

17 (b) Notwithstanding subsection (a) and in addition to the
18 authorized activities under section -4, a law enforcement
19 agency may deploy an unmanned aerial vehicle for the following
20 purposes:



- 1 (1) When there is a reasonable belief that an emergency
2 situation exists, whether or not the situation
3 involves criminal activity, and the use of an unmanned
4 aerial vehicle is necessary to prevent immediate
5 danger of death or serious physical injury to any
6 person;
- 7 (2) To conduct a search and rescue operation where the use
8 of an unmanned aerial vehicle is determined to be
9 necessary to alleviate an immediate danger to any
10 person;
- 11 (3) To respond to a hostage situation; or
- 12 (4) To conduct training exercises related to any of the
13 purposes in this subsection.

14 § -4 Public agency exceptions. Nothing in this chapter
15 shall prohibit the use of unmanned aerial vehicles by a public
16 agency:

- 17 (1) To conduct environmental or disaster response,
18 including but not limited to disaster relief, victim
19 recovery or search and rescue, and monitoring,
20 inspection, underwater repair, or structural damage
21 assessments;



- 1 (2) To dispose of a suspected or actual explosive device;
- 2 (3) To monitor plant or animal populations;
- 3 (4) To conduct atmospheric testing or monitoring; or
- 4 (5) For farming and agricultural uses.

5 § -5 Business exceptions. Nothing in this chapter shall
6 prohibit the use of an unmanned aerial vehicle by a business or
7 professional licensed in this State, or by an agent, employee,
8 or contractor thereof, if the unmanned aerial vehicle is used
9 only to perform reasonable tasks within the scope of practice or
10 activities permitted under the business or professional license,
11 including but not limited to:

- 12 (1) A property appraiser who uses the unmanned aerial
13 vehicle solely for the purpose of assessing property
14 taxes;
- 15 (2) A public utility that captures images for:
 - 16 (A) Operations, inspections, and maintenance of
17 utility facilities;
 - 18 (B) Assessing vegetation growth or conducting
19 environmental monitoring; or
 - 20 (C) Utility routing, siting, or permitting for
21 utility construction or provision of service;



- 1 (3) Aerial mapping;
- 2 (4) Delivery of cargo; or
- 3 (5) Capture of images necessary for safe operation of an
- 4 unmanned aerial vehicle.

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

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

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

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

- 20 (1) Injunctive relief;
- 21 (2) Equitable relief;



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

6 SECTION 2. Chapter 711, Hawaii Revised Statutes, is
 7 amended by adding a new section to be appropriately designated
 8 and to read as follows:

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

17 (2) Violation of this section is a misdemeanor."

18 SECTION 3. Section 711-1100, Hawaii Revised Statutes, is
 19 amended as follows:

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



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

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

6 "Record", for the purposes of sections 711-1110.9 [~~and~~],
 7 711-1111, and 711-_____, means to videotape, film, photograph, or
 8 archive electronically or digitally."

9 SECTION 4. Section 711-1110.9, Hawaii Revised Statutes, is
 10 amended by amending subsection (1) to read as follows:

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

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



1 (b) The person knowingly discloses an image or video of
2 another identifiable person either in the nude, as
3 defined in section 712-1210, or engaging in sexual
4 conduct, as defined in section 712-1210, without the
5 consent of the depicted person, with intent to harm
6 substantially the depicted person with respect to that
7 person's health, safety, business, calling, career,
8 financial condition, reputation, or personal
9 relationships; provided that:

10 (i) This paragraph shall not apply to images or
11 videos of the depicted person made:

12 (A) When the person was voluntarily nude in
13 public or voluntarily engaging in sexual
14 conduct in public; or

15 (B) Pursuant to a voluntary commercial
16 transaction; and

17 (ii) Nothing in this paragraph shall be construed to
18 impose liability on a provider of "electronic
19 communication service" or "remote computing
20 service" as those terms are defined in section
21 803-41, for an image or video disclosed through



1 the electronic communication service or remote
2 computing service by another person."

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

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

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

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

19 (c) Trespasses on property for the sexual gratification of
20 the actor;



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



1 telephone, telegraph, letter, electronic transmission,
2 or other means of communicating privately; but this
3 paragraph does not apply to:

4 (i) Overhearing of messages through a regularly
5 installed instrument on a telephone party line or
6 an extension; or

7 (ii) Interception by the telephone company, electronic
8 mail account provider, or telephone or electronic
9 mail subscriber incident to enforcement of
10 regulations limiting use of the facilities or
11 incident to other operation and use;

12 (h) Divulges, without the consent of the sender or the
13 receiver, the existence or contents of any message or
14 photographic image by telephone, telegraph, letter,
15 electronic transmission, or other means of
16 communicating privately, if the accused knows that the
17 message or photographic image was unlawfully
18 intercepted or if the accused learned of the message
19 or photographic image in the course of employment with
20 an agency engaged in transmitting it; or



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

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

6 SECTION 7. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect upon its approval.

9

INTRODUCED BY:



S.B. NO. 2347

Report Title:

Unmanned Aerial Vehicles; Restrictions on Use; Violation of Privacy

Description:

Establishes restrictions on the 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.

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

