

JAN 22 2016

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,



1 except when fitted with an active recording device and
2 recording or surveillance into or over private
3 property without consent of the property owner;
4 (2) An unmanned aircraft system used by a state
5 agency, for the purposes of mapping or resource
6 management; or
7 (3) Satellites.

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

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

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



1 §803- EXCEPTIONS. This act does not prohibit the use of an
2 unmanned aircraft system:

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

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

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

16 (d) In accordance with judicially recognized exceptions to
17 the warrant requirement.

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



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

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

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

9 **§803- REMEDIES FOR VIOLATION.** An aggrieved party may
10 initiate a civil action to:

11 (a) Obtain all appropriate relief including, but not
12 limited to, equitable relief in order to prevent or remedy a
13 violation of this act; and

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

19 (c) If evidence or information gathered by use of a
20 prohibited use of an unmanned aircraft system is publicly
21 displayed or publicly disclosed the aggrieved party will be



S.B. NO. 2712

1 entitled to recover from such person, entity, state agency or
 2 local public agency damages in the amount of the greater of ten
 3 thousand dollars (\$10,000) or actual and general damages, plus
 4 reasonable attorney's fees and other litigation costs reasonably
 5 incurred.

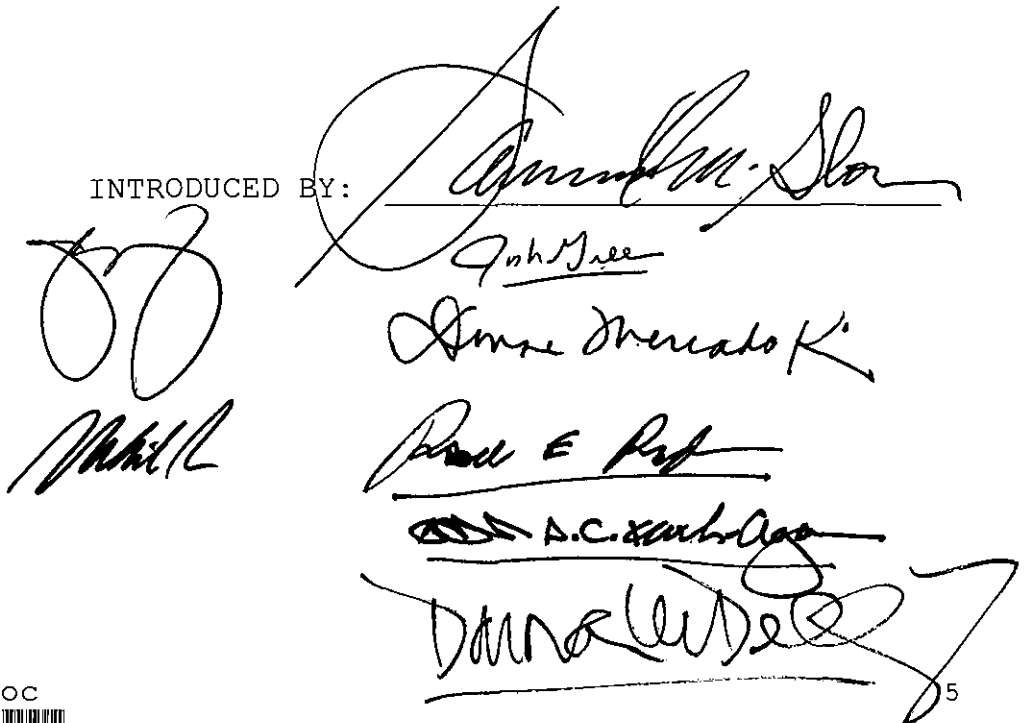
6 §803- PROHIBITION ON USE OF EVIDENCE. Evidence obtained or
 7 collected in violation of this act is not admissible as evidence
 8 in a criminal prosecution or civil action in any court of law in
 9 this state except if used in prosecuting any cause of action
 10 against a person who is in violation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

12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This act shall take effect on July 1, 2016.

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INTRODUCED BY:



Handwritten signatures of legislative members, including names like Jimmie M. Slon, John J. Lee, Anne Mercado K., Paul E. Poff, and Dana L. Wideman.

S.B. NO. 2112

Report Title:

Unwarranted Surveillance; Unmanned Aircraft Systems

Description:

An act 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.

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

