

JAN 18 2013

A BILL FOR AN ACT

RELATING TO UNMANNED AERIAL VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER 263B**

5 **263B-1 Definition.** The term 'unmanned aerial vehicle'
6 means an aircraft that is operated without the possibility of
7 direct human intervention from within or on the aircraft.

8 **263B-2 Use of Unmanned Aerial Vehicles.** (a) Any use of
9 unmanned aerial vehicles must fully comply with all Federal
10 Aviation Administration requirements and guidelines, and
11 chapters 261, 262, 263, and 263A. Acquisition of unmanned
12 aerial vehicles must be approved by the department of
13 transportation.

14 (b) Except as provided in subsection (c), it is unlawful
15 for an agent of the state or any political subdivision thereof,
16 or an individual, association, organization, or corporation, to
17 operate an unmanned aerial vehicle or to disclose or receive



1 information acquired through the operation of an unmanned aerial
2 vehicle.

3 (c) Exceptions.

4 (1) Consent. It shall not be unlawful under this
5 chapter to disclose or receive information about
6 any person acquired through the operation of an
7 unmanned aerial vehicle if such person has given
8 written consent to such disclosure.

9 (2) Emergency Situations. It shall not be unlawful
10 under this chapter for an agent of the state or any
11 political subdivision thereof to operate an
12 unmanned aerial vehicle, and for information from
13 such operation to be disclosed or received if the
14 unmanned aerial vehicle is used in circumstances in
15 which it is reasonable to believe that there is an
16 imminent threat to the life or safety of a person,
17 to assist the person, provided that within 48 hours
18 of the commencement of such operation, a
19 supervisory official of the agent of the state or
20 any political subdivision thereof, shall file a
21 sworn statement with the circuit court of that



jurisdiction setting forth the grounds for the
emergency access.

(3) Warrant or Order.

(A) Warrant. An unmanned aerial vehicle may be
operated and information from such operation
disclosed in order to collect information from a
non-public area only pursuant to a warrant
issued under chapter 803.

(B) Order. An unmanned aerial vehicle may be
operated and information from such operation
disclosed in order to collect information from a
public area pursuant to a warrant authorized
under subsection (3)(A) or pursuant to an order
issued by any court that is a court of competent
jurisdiction if the agent of the state or any
political subdivision thereof offers specific
facts demonstrating reasonable suspicion of
criminal activity, that the operation of the
public unmanned aircraft system is expected to
uncover such activity, and that alternative
methods of data collection are either cost-
prohibitive or present a significant risk to any



1 person's bodily safety. Such an order shall not
2 be issued for a period greater than 48 hours.
3 Extensions of an order may be granted but shall
4 be no longer than the authorizing judge deems
5 necessary to achieve the purposes for which it
6 was granted and in no event for longer than
7 thirty days.

8 (d) When unmanned aerial vehicles are used pursuant to
9 subsection (c), they shall be operated in a manner to
10 collect data only on the target and to avoid data
11 collection on individuals, homes, or areas other than the
12 target. Neither facial recognition nor other biometric
13 matching technology may be used on non-target data
14 collected by an unmanned aerial vehicle.

15 (e) Unmanned aerial vehicles may not be equipped with
16 weapons.

17 **263B-3 Data retention and use.** (a) No data collected on
18 an individual, home, or area other than the target that
19 justified deployment may be used, copied, or disclosed for any
20 purpose. Such data must be deleted within twenty-four hours
21 after collection.



1 (b) Whenever an agent of the state or any political
2 subdivision thereof uses an unmanned aerial vehicle, no part of
3 information acquired and no evidence derived therefrom may be
4 received in evidence in any trial, hearing, or other proceeding
5 in or before any court, grand jury, department, officer, agency,
6 regulatory body, legislative committee, or other authority of
7 the state or a political subdivision thereof if the disclosure
8 of that information would be in violation of this chapter.

9 (c) Any willful disclosure or use by an agent of the state
10 or any political subdivision thereof of information beyond the
11 extent permitted by this chapter is a violation of this chapter,
12 and is subject to administrative discipline as described in
13 subsection 263B-6 below.

14 **263B-4 Emergency situations exception.** (a) Notwithstanding
15 any other provision of this chapter, an agent of the state or
16 any political subdivision thereof may operate an unmanned aerial
17 vehicle and disclose information from such operation if

18 (1) Such agent of the state or any political
19 subdivision thereof reasonably determines that an
20 emergency situation exists that involves:



1 (A) Immediate danger of death or serious physical
2 injury to any person;

3 (B) Conspiratorial activities threatening the
4 national security interest; or

5 (C) Conspiratorial activities characteristic of
6 organized crime;

7 (2) The operation of an unmanned aerial vehicle is
8 required before a warrant or order authorizing
9 such interception can, with due diligence, be
10 obtained;

11 (3) There are grounds upon which such a warrant or
12 order could be entered to authorize such
13 operation; and

14 (4) An application for a warrant or order approving
15 such operation is made within 48 hours after the
16 operation has occurred or begins to occur.

17 (b) An operation of an unmanned aerial vehicle carried out
18 under subsection (a) shall immediately terminate when
19 the information sought is obtained or when the
20 application for the warrant or order is denied,
21 whichever is earlier.



(c) In the event an application for a warrant or order is denied, the information obtained from the operation of an unmanned aerial vehicle shall be treated as having been obtained in violation of this chapter and the evidence shall not be used.

263B-5 Delayed Notice. (a) An agent of the state or any political subdivision thereof, in seeking a court order or warrant, may request a delay on the notification required under section 803 for a period not to exceed ninety days, if there is reason to believe that notification of the existence of the court order may have an adverse result. For the purposes of this subsection, an "adverse result" is one that poses a risk of:

- (1) Endangering the life or physical safety of an individual;
- (2) Flight from prosecution;
- (3) Destruction of or tampering with evidence;
- (4) Intimidation of potential witnesses; or
- (5) Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

Extensions of the delay of notification of up to ninety days each may be granted by the court upon application, or by



1 certification by the agent of the state or any political
2 subdivision thereof.

3 (b) Upon expiration of the period of delay of
4 notification, the agent of the state or any political
5 subdivision thereof shall serve upon or deliver by registered or
6 first-class mail to, a copy of the warrant or order upon the
7 person or persons upon whom information was collected together
8 with a notice that

9 (1) States with reasonable specificity the nature of
10 the law enforcement inquiry; and

11 (2) Informs the person or persons upon whom
12 information was collected that notification of such
13 customer or subscriber was delayed and which provision of
14 this chapter allowed such delay; and

15 (3) The governmental entity or court which made the
16 certification or determination of delay.

17 **263B-6 Administrative discipline.** If a court or
18 appropriate department or agency determines that an agent of the
19 state or any political subdivision thereof has violated any
20 provision of this chapter, and that the circumstances
21 surrounding the violation raise serious questions about whether
22 or not the agent of the state or any political subdivision



1 thereof acted willfully or intentionally with respect to the
2 violation, the department or agency shall, upon receipt of a
3 true and correct copy of the decision and findings of the court
4 or appropriate department or agency, promptly initiate a
5 proceeding to determine whether disciplinary action against the
6 agent of the state or any political subdivision thereof is
7 warranted. If the head of the department or agency involved
8 determines that disciplinary action is not warranted, such head
9 shall notify the Attorney General with jurisdiction over the
10 department or agency concerned and shall provide the Attorney
11 General with the reasons for such determination.

12 **263B-7 Reporting.** (a) In January of each year, any agent
13 of the state or political subdivision thereof that uses unmanned
14 aerial vehicles shall report to the legislature on activity
15 during the prior year, and shall provide a copy of the report to
16 the office of the administrative director of the courts,
17 information to include:

18 (1) The number of times an unmanned aerial vehicle was
19 used, organized by the types of incidents and the
20 types of justification for deployment;

21 (2) The number of crime investigations aided by the
22 use of unmanned aerial vehicles, along with a



1 description of how the unmanned aerial vehicle was
2 helpful to each investigation;

3 (3) The number of uses of unmanned aerial vehicles for
4 reasons other than criminal investigations, along
5 with a description of how the unmanned aerial
6 vehicle was helpful in each instance;

7 (4) The frequency and type of data collected on
8 individuals or areas other than targets; and

9 (5) The total cost of their unmanned aerial vehicle
10 program.

11 (b) In January of each year, any judge who has in the
12 prior year issued a warrant or order or an extension thereof, or
13 denied approval of an application for a warrant or order, under
14 this section, shall report to the office of the administrative
15 director of the courts:

16 (1) The number and kind of orders or extensions
17 applied for, granted, modified, or denied;

18 (2) The period of unmanned aerial vehicle use
19 authorized by the orders, and the number and
20 duration of any extensions of the orders;

21 (3) The offense specified in the order or application,
22 or extension of an order; and



1 (4) The identity of the applying agent of the state or
2 political subdivision thereof making the
3 application and the person authorizing the
4 application.

5 (c) In April of each year the office of the administrative
6 director of the courts shall report to the legislature
7 information for the prior year, including:

8 (1) A general description of the information gathered
9 in orders or extensions under this section;

10 (2) The nature and frequency of incriminating conduct
11 gathered;

12 (3) The number of persons upon whom information was
13 gathered, and

14 (4) The nature, amount, and cost of the manpower and
15 other resources used in the collection;

16 (5) The number of arrests resulting from information
17 gathered and the offenses for which arrests were
18 made;

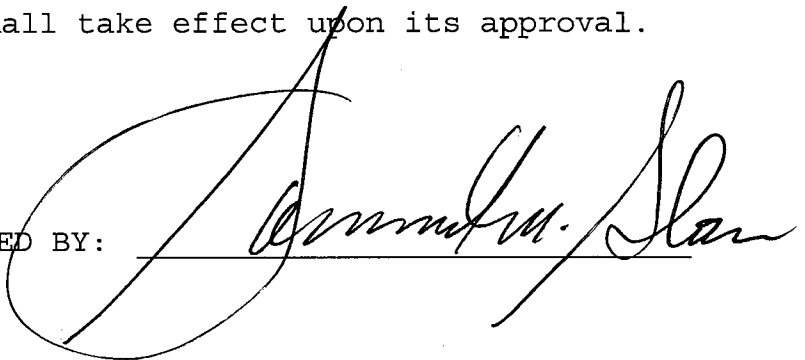
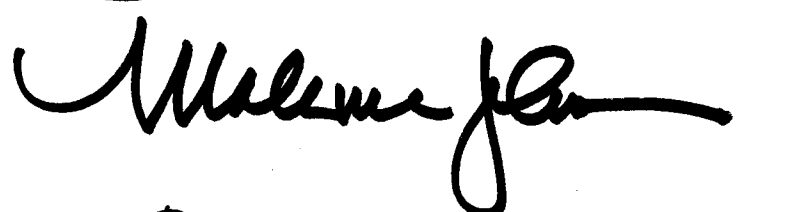

19 (6) The number of trials resulting from such
20 information;



- 1 (7) The number of motions to suppress made with
2 respect to such information, and the number
3 granted or denied; and
4 (8) The number of convictions resulting from such
5 information and the offenses for which the
6 convictions were obtained and a general assessment
7 of the importance of the information.

8 SECTION 2. This Act shall take effect upon its approval.
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INTRODUCED BY:



S.B. NO. 783

Report Title:

Unmanned Aerial Vehicles; Ban on Surveillance by Drones

Description:

Creates new section relating to unmanned aerial vehicles.

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

