

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 1556

By: Wesselhoft

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to aircraft; creating the Oklahoma
9 Unmanned Aerial Surveillance Act; defining terms;
10 prohibiting operation of an unmanned aircraft system
11 for surveillance; providing exceptions; providing
12 penalties; authorizing civil remedy; prohibiting
13 information acquired through surveillance from being
14 presented; providing exceptions; requiring deletion
15 of data acquired in certain circumstances; excepting
16 certain data; permitting incidental overflight of
17 unmanned aircraft; proscribing surveillance during
18 overflight; providing exception; requiring deletion
19 of information gathered during overflight; excepting
20 certain information; providing penalties; prohibiting
21 operation of a weaponized unmanned aircraft;
22 prescribing penalties; excepting military personnel;
23 limiting liability of unmanned aircraft manufacturer
24 or seller; construing provision; providing for
codification; providing for noncodification; and
providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

Sections 1 through 7 of this act shall be known and may be cited
as the Oklahoma Unmanned Aerial Surveillance Act.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 400 of Title 3, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Unmanned Aerial Surveillance Act:

5 1. "Aircraft" means any contrivance now known, or hereafter
6 invented, used or designed for navigation of or flight in the air or
7 airspace;

8 2. "Court" means a court of competent jurisdiction, which for
9 purposes of this act includes any Oklahoma court established
10 pursuant to Section 1 of Article VII of the Oklahoma Constitution;

11 3. "Surveillance" means any activity the purpose of which is to
12 gather any type of media, data, information, or evidence of any kind
13 relating to the person, property, activities, acquaintances,
14 associations, movements, choices, conduct, or appearance of another
15 person or organization;

16 4. "Unmanned aircraft" means an aircraft that is operated
17 without the possibility of human intervention from within or on the
18 aircraft; and

19 5. "Unmanned aircraft system" means an unmanned aircraft and
20 associated elements, including communication links, the components
21 or systems that control the unmanned aircraft, and any devices,
22 components, or systems by which data are gathered, transmitted, or
23 recorded.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 401 of Title 3, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Except as otherwise specifically authorized in the Oklahoma
5 Unmanned Aerial Surveillance Act, it shall be unlawful to operate an
6 unmanned aircraft system for or in connection to surveillance within
7 the state.

8 B. Notwithstanding the prohibition of subsection A of this
9 section, it shall be lawful to operate an unmanned aircraft system
10 within the state for surveillance, when the operator is:

11 1. A law enforcement agency or peace officer acting on a valid
12 search warrant issued by a court of competent jurisdiction, and in
13 full compliance with Sections 1221 through 1238 of Title 22 of the
14 Oklahoma Statutes;

15 2. A law enforcement agency or peace officer acting in good-
16 faith reliance on a court order or legislative or statutory
17 authority;

18 3. A law enforcement agency, peace officer, emergency services
19 provider, or private contractor therewith, when conducting a search
20 for a missing person, provided it is reasonable to believe that
21 there is an imminent threat to the life or safety of the person, and
22 the purpose of the surveillance is to assist the person. A
23 reasonable articulable basis for this belief shall be placed in a
24 written, sworn statement within twenty-four (24) hours of the

1 commencement of surveillance and shall be maintained by the law
2 enforcement agency, peace officer, or emergency services provider as
3 a public record that shall be disclosed on request, but may be
4 redacted to prevent release of confidential or private information
5 regarding the missing person;

6 4. A firefighting or emergency services agency or department,
7 or other agency or individual acting in support thereof, when
8 responding to a wildfire or other natural disaster, provided that
9 the use of the unmanned aircraft system is necessary to monitor the
10 progress of the disaster or direct the response. A statement
11 outlining the necessity shall be placed in a written, sworn
12 statement within twenty-four (24) hours of the commencement of
13 surveillance and shall be maintained by the firefighting or
14 emergency services agency or department as a public record that
15 shall be disclosed on request;

16 5. Any agency, person, or organization, when acting on the
17 informed and freely given consent of the person or organization
18 whose person or property are the subject of the surveillance,
19 provided the consent is made in writing prior to the commencement of
20 surveillance; or

21 6. Any authorized public officer or county, state, or federal
22 agency, when conducting surveillance exclusively of public land or
23 property, provided that the surveillance may not be targeted at
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1 gathering or producing information concerning any private citizens
2 or organizations that are using or present on the land or property.

3 C. Any person engaging in surveillance in violation of
4 subsection A of this section shall be guilty of a misdemeanor, and
5 shall be punished by a sentence of not more than one (1) year in the
6 county jail and a fine of not less than Five Hundred Dollars
7 (\$500.00), nor greater than Five Thousand Dollars (\$5,000.00), for
8 each violation.

9 D. Regardless of whether a criminal prosecution or
10 investigation is made, any person or organization aggrieved by
11 conduct in violation of subsection A of this section shall have the
12 right to bring a civil action against the responsible party or
13 parties, who shall be liable for treble actual damages. In
14 addition, any willful or wanton conduct of the violator or
15 deliberate effort to conceal the violation shall be subject to
16 punitive damages not to exceed Fifty Thousand Dollars (\$50,000.00)
17 per violation. A civil claim brought under this subsection shall be
18 proven by a preponderance of the evidence, and shall be brought any
19 time within two (2) years of discovery of the surveillance by the
20 plaintiff.

21 E. No information, data, or media acquired by surveillance in
22 violation of subsection A of this section, and no evidence derived
23 therefrom, shall be received in evidence in any trial, hearing, or
24 other proceeding in or before any court, grand jury, department,

1 officer, agency, regulatory body, legislative committee, or other
2 authority existing under the laws of this state, except for data
3 introduced in any proceeding brought against a violator of this act
4 or data which is incidentally gathered while in transit to the
5 specified target and a subsequent search warrant application is
6 authorized and granted by a judge of competent jurisdiction when the
7 judge finds that the data was otherwise intercepted in accordance
8 with the provisions of the Oklahoma Unmanned Aerial Surveillance
9 Act.

10 F. When unmanned aerial vehicles are used pursuant to
11 subsection B of this section, they shall be operated in a manner to
12 collect data only on the target of the surveillance and to avoid
13 data collection on individuals, homes, or areas other than the
14 target. Data collected on any individual, home, or area other than
15 the target that justified deployment shall not be used, copied, or
16 disclosed for any purpose except as provided in subsection E of this
17 section. The data shall be deleted as soon as possible unless the
18 data is the subject of a subsequent search warrant application, and
19 in no event later than one (1) week after collection.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 402 of Title 3, unless there is
22 created a duplication in numbering, reads as follows:

23 A. Nothing in the Oklahoma Unmanned Aerial Surveillance Act
24 shall prohibit an operator of an unmanned aircraft system from

1 causing or allowing an unmanned aircraft to fly over public or
2 private land in transit to or from its destination or base of
3 operation, so long as the overflight is otherwise in compliance with
4 state and federal law and any applicable Federal Aviation
5 Administration regulations. During any incidental overflight, an
6 unmanned aircraft shall use no surveillance system or device
7 included in or mounted thereon, unless necessary for safe operation
8 or navigation.

9 B. Any information, media, or data of any kind gathered during
10 overflight shall be inadmissible in any legal proceeding of any kind
11 conducted pursuant to the laws of the State of Oklahoma unless the
12 data is incidentally gathered while in transit to the specified
13 target and a subsequent search warrant application is authorized and
14 granted by a judge of competent jurisdiction when the judge finds
15 that the data was otherwise intercepted in accordance with the
16 provisions of the Oklahoma Unmanned Aerial Surveillance Act.

17 C. Data collected on any individual, home, or area other than
18 the target that justified deployment shall not be used, copied, or
19 disclosed for any purpose except as provided in subsection B of this
20 section. The data collected shall be deleted as soon as possible
21 unless the data is the subject of a subsequent search warrant
22 application, and in no event later than one (1) week after
23 collection.

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1 D. Any willful disclosure of media, data, or information,
2 unless authorized by Section 3 of the Oklahoma Unmanned Aerial
3 Surveillance Act, shall be punishable as a misdemeanor, with a
4 sentence not to exceed six (6) months in the county jail and a fine
5 of not less than Two Hundred Fifty Dollars (\$250.00) nor more than
6 Two Thousand Five Hundred Dollars (\$2,500.00) per violation.

7 E. Whenever an agent of the state or any political subdivision
8 of the state uses an unmanned aerial vehicle, no part of the
9 information acquired and no evidence derived therefrom shall be
10 received in evidence in any trial, hearing, or other proceeding in
11 or before any court, grand jury, department, officer, agency,
12 regulatory body, legislative committee, or other authority of the
13 state or a political subdivision of the state if the disclosure of
14 that information would be in violation of this act.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 403 of Title 3, unless there is
17 created a duplication in numbering, reads as follows:

18 A. No person shall operate an unmanned aircraft system that
19 contains, mounts, or possesses any lethal or nonlethal weapon or
20 weapons system of any kind.

21 B. Any person operating a weaponized unmanned aircraft system
22 in violation of subsection A of this section shall be guilty of a
23 felony, and shall be punished by a sentence of not more than ten
24 (10) years in the custody of the Department of Corrections and a

1 fine of not less than One Thousand Dollars (\$1,000.00), nor greater
2 than Ten Thousand Dollars (\$10,000.00), for each violation.

3 C. The prohibition and penalties contained in this section
4 shall not apply to duly authorized members, agents, or contractors
5 of the United States military, when operating weaponized unmanned
6 aircraft systems over public land for purposes of testing or
7 training.

8 SECTION 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 404 of Title 3, unless there is
10 created a duplication in numbering, reads as follows:

11 No manufacturer or seller of an unmanned aircraft system shall
12 be held liable in any civil or criminal court or tribunal for any
13 subsequent violation of the Oklahoma Unmanned Aerial Surveillance
14 Act by any other person, organization, or agency operating an
15 unmanned aircraft system in surveillance activities.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 405 of Title 3, unless there is
18 created a duplication in numbering, reads as follows:

19 Nothing in the Oklahoma Unmanned Aerial Surveillance Act shall
20 be construed to attempt to override or supersede applicable federal
21 law.

22 SECTION 8. This act shall become effective November 1, 2013.
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24 54-1-7380 KB 02/27/13