

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1556

By: Wesselhoft and Bennett

7
8 COMMITTEE SUBSTITUTE

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

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

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

6 As used in the Oklahoma Unmanned Aerial Surveillance Act:

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

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

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

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

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

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

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

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

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

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

20 3. A law enforcement agency, peace officer, emergency services
21 provider, or private contractor therewith, when conducting a search
22 for a missing person, provided it is reasonable to believe that
23 there is an imminent threat to the life or safety of the person, and
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1 the purpose of the surveillance is to assist the person. A
2 reasonable articulable basis for this belief shall be placed in a
3 written, sworn statement within twenty-four (24) hours of the
4 commencement of surveillance and shall be maintained by the law
5 enforcement agency, peace officer, or emergency services provider as
6 a public record that shall be disclosed on request, but may be
7 redacted to prevent release of confidential or private information
8 regarding the missing person;

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

19 5. Any agency, person, or organization, when acting on the
20 informed and freely given consent of the person or organization
21 whose person or property are the subject of the surveillance,
22 provided the consent is made in writing prior to the commencement of
23 surveillance; or
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1 6. Any authorized public officer or county, state, or federal
2 agency, when conducting surveillance exclusively of public land or
3 property, provided that the surveillance may not be targeted at
4 gathering or producing information concerning any private citizens
5 or organizations that are using or present on the land or property.

6 C. Any person engaging in surveillance in violation of
7 subsection A of this section shall be guilty of a misdemeanor, and
8 shall be punished by a sentence of not more than one (1) year in the
9 county jail and a fine of not less than Five Hundred Dollars
10 (\$500.00), nor greater than Five Thousand Dollars (\$5,000.00), for
11 each violation.

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

1 E. No information, data, or media acquired by surveillance in
2 violation of subsection A of this section, and no evidence derived
3 therefrom, shall be received in evidence in any trial, hearing, or
4 other proceeding in or before any court, grand jury, department,
5 officer, agency, regulatory body, legislative committee, or other
6 authority existing under the laws of this state, except for data
7 introduced in any proceeding brought against a violator of this act
8 or data which is incidentally gathered while in transit to the
9 specified target and a subsequent search warrant application is
10 authorized and granted by a judge of competent jurisdiction when the
11 judge finds that the data was otherwise intercepted in accordance
12 with the provisions of the Oklahoma Unmanned Aerial Surveillance
13 Act.

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

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

4 A. Nothing in the Oklahoma Unmanned Aerial Surveillance Act
5 shall prohibit an operator of an unmanned aircraft system from
6 causing or allowing an unmanned aircraft to fly over public or
7 private land in transit to or from its destination or base of
8 operation, so long as the overflight is otherwise in compliance with
9 state and federal law and any applicable Federal Aviation
10 Administration regulations. During any incidental overflight, an
11 unmanned aircraft shall use no surveillance system or device
12 included in or mounted thereon, unless necessary for safe operation
13 or navigation.

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

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

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

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

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 403 of Title 3, unless there is
22 created a duplication in numbering, reads as follows:
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1 A. No person shall operate an unmanned aircraft system that
2 contains, mounts, or possesses any lethal or nonlethal weapon or
3 weapons system of any kind.

4 B. Any person operating a weaponized unmanned aircraft system
5 in violation of subsection A of this section shall be guilty of a
6 felony, and shall be punished by a sentence of not more than ten
7 (10) years in the custody of the Department of Corrections and a
8 fine of not less than One Thousand Dollars (\$1,000.00), nor greater
9 than Ten Thousand Dollars (\$10,000.00), for each violation.

10 C. The prohibition and penalties contained in this section
11 shall not apply to duly authorized members, agents, or contractors
12 of the United States military, when operating weaponized unmanned
13 aircraft systems over public land for purposes of testing or
14 training.

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

18 No manufacturer or seller of an unmanned aircraft system shall
19 be held liable in any civil or criminal court or tribunal for any
20 subsequent violation of the Oklahoma Unmanned Aerial Surveillance
21 Act by any other person, organization, or agency operating an
22 unmanned aircraft system in surveillance activities.
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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 405 of Title 3, unless there is
3 created a duplication in numbering, reads as follows:

4 Nothing in the Oklahoma Unmanned Aerial Surveillance Act shall
5 be construed to attempt to override or supersede applicable federal
6 law.

7 SECTION 8. This act shall become effective November 1, 2013.

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9 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND AEROSPACE, dated
10 02/28/2013 - DO PASS, As Amended and Coauthored.

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