

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1556

By: Wesselhoft

AS INTRODUCED

An Act relating to aircraft; creating the Oklahoma Unmanned Aerial Surveillance Act; defining terms; prohibiting operation of an unmanned aircraft system for surveillance; providing exceptions; providing penalties; authorizing civil remedy; prohibiting information acquired through surveillance from being presented; requiring deletion of data acquired in certain circumstances; permitting incidental overflight of unmanned aircraft; limiting overflight to certain altitude; proscribing surveillance during overflight; requiring deletion of information gathered during overflight; providing penalties; prohibiting operation of a weaponized unmanned aircraft; prescribing penalties; excepting military personnel; 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:

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

1 redacted to prevent release of confidential or private information
2 regarding the missing person;

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

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

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

23 C. Any person engaging in surveillance in violation of
24 subsection A of this section shall be guilty of a misdemeanor, and

1 shall be punished by a sentence of not more than one (1) year in the
2 county jail and a fine of not less than Five Hundred Dollars
3 (\$500.00), nor greater than Five Thousand Dollars (\$5,000.00), for
4 each violation.

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

17 E. No information, data, or media acquired by surveillance in
18 violation of subsection A of this section, and no evidence derived
19 therefrom, shall be received in evidence in any trial, hearing, or
20 other proceeding in or before any court, grand jury, department,
21 officer, agency, regulatory body, legislative committee, or other
22 authority existing under the laws of this state, except for that
23 introduced in any proceeding brought against a violator of this act.

1 F. When unmanned aerial vehicles are used pursuant to
2 subsection B of this section, they shall be operated in a manner to
3 collect data only on the target of the surveillance and to avoid
4 data collection on individuals, homes, or areas other than the
5 target. Data collected on any individual, home, or area other than
6 the target that justified deployment shall not be used, copied, or
7 disclosed for any purpose. The data shall be deleted as soon as
8 possible, and in no event later than twenty-four (24) hours after
9 collection.

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

13 A. Nothing in the Oklahoma Unmanned Aerial Surveillance Act
14 shall prohibit an operator of an unmanned aircraft system from
15 causing or allowing an unmanned aircraft to fly over public or
16 private land in transit to or from its destination or base of
17 operation, so long as the overflight is otherwise in compliance with
18 state and federal law and any applicable Federal Aviation
19 Administration regulations. In addition, the incidental overflight
20 shall not go lower than five hundred (500) feet above ground level
21 and consist of no surveillance while in transit. During any
22 incidental overflight, an unmanned aircraft shall use no
23 surveillance system or device included in or mounted thereon, unless
24 necessary for safe operation or navigation.

1 B. Any information, media, or data of any kind gathered during
2 overflight shall be inadmissible in any legal proceeding of any kind
3 conducted pursuant to the laws of the State of Oklahoma.

4 C. Data collected on any individual, home, or area other than
5 the target that justified deployment shall not be used, copied, or
6 disclosed for any purpose. The data collected shall be deleted as
7 soon as possible, and in no event later than twenty-four (24) hours
8 after collection.

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

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

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

4 A. No person shall operate an unmanned aircraft system that
5 contains, mounts, or possesses any lethal or nonlethal weapon or
6 weapons system of any kind.

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

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

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

21 No manufacturer or seller of an unmanned aircraft system shall
22 be held liable in any civil or criminal court or tribunal for any
23 subsequent violation of the Oklahoma Unmanned Aerial Surveillance
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1 Act by any other person, organization, or agency operating an
2 unmanned aircraft system in surveillance activities.

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

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

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

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