

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1204

97TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, May 6, 2014, with recommendation that the Senate Committee Substitute do pass.

5029S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 305, RSMo, by adding thereto four new sections relating to aerial surveillance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 305, RSMo, is amended by adding thereto four new sections, to be known as sections 305.635, 305.637, 305.639, and 305.641, to read as follows:

305.635. 1. Sections 305.635 to 305.641 shall be known and may be cited as the "Preserving Freedom from Unwarranted Surveillance Act".

2. As used in sections 305.635 to 305.641, the following terms shall mean:

(1) "Drone", any powered aerial vehicle that:

(a) Does not carry a human operator;

(b) Uses aerodynamic forces to provide vehicle lift;

(c) Can fly autonomously or be piloted remotely;

(d) Can be expendable or recoverable; and

(e) Can carry a lethal or non-lethal payload;

(2) "Manned aircraft", an aircraft that is operated by a human on board the aircraft;

(3) "Model aircraft", an unmanned aircraft that is:

(a) Capable of sustained flight in the atmosphere;

(b) Flown within visual line of sight of the person remotely operating the aircraft; and

(c) Flown for hobby or recreational purposes;

(4) "State law enforcement agency", any state law enforcement

20 agency in the state. The term "state law enforcement agency" shall not
21 include the Missouri department of corrections or any state, county, or
22 municipal fire department;

23 (5) "Unmanned aircraft", an aircraft that is operated without the
24 possibility of direct human intervention from within or on the aircraft.

305.637. 1. No state agency or county or municipal law
2 enforcement agency in the state shall use a drone or other unmanned
3 aircraft to gather evidence or other information pertaining to criminal
4 conduct or conduct in violation of a statute or regulation except to the
5 extent authorized in a warrant.

6 2. A law enforcement agency, without obtaining a warrant, may
7 use a drone or unmanned aircraft in emergency situations if there is an
8 imminent threat to life or of great bodily harm, including but not
9 limited to fires, hostage crises, hot pursuit situations if reasonably
10 necessary to prevent harm to law enforcement officers or others, and
11 search and rescue operations on land or water. A law enforcement
12 agency, without obtaining a warrant, may use a drone or unmanned
13 aircraft to assess the necessity of first responders in situations relating
14 to traffic accidents or fires or to inspect state parks and conservation
15 areas for illegal vegetation. Nothing in sections 305.635 to 305.641 shall
16 be construed to prohibit any law enforcement officer from gathering
17 evidence under the plain view doctrine.

18 3. No person, entity, or state agency shall use a drone or other
19 unmanned aircraft to conduct surveillance or observation of any
20 individual, property owned by an individual, farm, or agricultural
21 industry without the consent of that individual, property owner, farm,
22 or agricultural industry except to the extent authorized in a warrant.

305.639. 1. This act does not prohibit the use of a manned
2 aircraft, drone, or unmanned aircraft by:

3 (1) A state law enforcement agency or any county or municipal
4 law enforcement agency in the state to the extent authorized in a
5 warrant;

6 (2) A Missouri-based higher education institution conducting
7 educational, research, or training programs within the scope of its
8 mission, grant requirements, curriculum or collaboration with the
9 United States Department of Defense;

10 (3) A manufacturer or seller:

11 (a) Engaged in the research, development, or testing of a manned
12 aircraft, drone, or unmanned aircraft; and

13 (b) Operating a manned aircraft, drone, or unmanned aircraft:

14 a. In accordance with such manufacturer's or seller's standard
15 flight operating procedures, including flight procedures for research,
16 development, operational and developmental tests and evaluation,
17 training, and market surveys;

18 b. On a flight to or from an airport, airfield, remote site, or
19 runway including an airfield or runway used for research, testing, or
20 development purposes; or

21 c. In the process of taking off or landing;

22 (4) Any rural electric cooperative, public utility as defined in
23 section 386.020, public utility as defined by Section 201 of the Federal
24 Power Act, or electrical corporation required by its bylaws to operate
25 under the provisions of subsection 2 of section 393.110, provided that:

26 (a) The public utility's drone use is not prohibited by the public
27 service commission or the Federal Energy Regulatory Commission, as
28 applicable; and

29 (b) The drone used by such rural electric cooperative, public
30 utility, or electrical corporation is used to observe, inspect, or secure,
31 or gather information regarding its infrastructure and facilities that is
32 necessary or useful in the provision of its services to its consumers or
33 customers. Information so gathered shall not be distributed or made
34 available to any party other than another rural electric cooperative,
35 public utility, or their respective agents, as reasonably required for
36 utility purposes or as required by state or federal law;

37 (5) Any person who has a purpose to disseminate to the public
38 a newspaper, book, magazine, broadcast, motion pictures and other
39 audiovisual works, or other similar form of public communication,
40 including dissemination by computer or other electronic means, and
41 who does not violate the established privacy rights of any person;

42 (6) Any real estate agent or broker licensed in this state or any
43 person acting on behalf of such real estate agent or broker in
44 connection with the marketing, sale, or financing of real property;

45 (7) Any branch of the United States Armed Forces or the
46 National Guard;

47 (8) Any professional engaged in surveying, mapping, or

48 **engineering; and**

49 **(9) Any person who has a purpose of gathering weather-related**
50 **information for a weather service.**

51 **2. This act does not prohibit the use of a model aircraft.**

305.641. 1. Any aggrieved party may in a civil action obtain all
2 **appropriate relief to prevent or remedy a violation of this act.**

3 **2. No information obtained or collected in violation of this act**
4 **may be admissible as evidence in a criminal proceeding in any court of**
5 **law in the state or in an administrative hearing.**

6 **3. Sovereign immunity for the state of Missouri is waived for any**
7 **civil action resulting from a violation of sections 305.635 to 305.641.**

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