

FIRST REGULAR SESSION

# HOUSE BILL NO. 209

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

0984H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 542.525 and 577.800, RSMo, and to enact in lieu thereof six new sections relating to surveillance, with penalty provisions.

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

Section A. Sections 542.525 and 577.800, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 305.635, 305.637, 305.639, 305.641, 542.525, and 577.800, to read as follows: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 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 nonlethal 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;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (4) "State law enforcement agency", any state law enforcement agency in the  
18 state. The term "state law enforcement agency" shall not include the Missouri  
19 department of corrections or any state, county, or municipal fire department;

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

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

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

15 3. (1) A person, entity, or state agency shall launch or operate a drone or other  
16 unmanned aircraft only within the operating limitations provided in 14 CFR 107.51.

17 (2) No person, entity, or state agency shall launch or operate a drone or other  
18 unmanned aircraft within the property line of private property without the consent of  
19 the property owner or occupant.

20 4. No person, entity, or state agency shall operate a drone or other unmanned  
21 aircraft to conduct surveillance or observation of any individual, property owned by an  
22 individual, farm, facility engaged in the creation of fuel from agricultural products, or  
23 agricultural industry without the consent of that individual, property owner, farm,  
24 facility, or agricultural industry, except to the extent authorized in a warrant.

305.639. 1. Sections 305.635 to 305.641 do not prohibit the operation of a  
2 manned aircraft, drone, or unmanned aircraft by:

3 (1) A state law enforcement agency or any county or municipal law enforcement  
4 agency in the state to the extent authorized in a warrant or in the course of a response  
5 for public safety;

6 (2) Any person performing in the course of the person's duties on behalf of a fire  
7 department or fire department district;

- 8           **(3) A Missouri-based higher education institution conducting educational,**  
9 **research, or training programs within the scope of its mission, grant requirements,**  
10 **curriculum, or collaboration with the United States Department of Defense;**
- 11           **(4) A manufacturer or seller:**
- 12           **(a) Engaged in the research, development, or testing of a manned aircraft, drone,**  
13 **or unmanned aircraft; and**
- 14           **(b) Operating a manned aircraft, drone, or unmanned aircraft:**
- 15           **a. In accordance with such manufacturer's or seller's standard flight operating**  
16 **procedures, including flight procedures for research, development, operational, and**  
17 **developmental tests and evaluation, training, and market surveys;**
- 18           **b. On a flight to or from an airport, airfield, remote site, or runway, including an**  
19 **airfield or runway used for research, testing, or development purposes; or**
- 20           **c. In the process of taking off or landing;**
- 21           **(5) Any state-licensed real estate agent or broker, professional land surveyor, or**  
22 **real estate appraiser, or any person acting on behalf of such persons, in connection with**  
23 **the marketing, sale, or financing of real property;**
- 24           **(6) Any branch of the United States Armed Forces or the National Guard;**
- 25           **(7) Any professional engaged in surveying, mapping, or engineering;**
- 26           **(8) A public utility, municipal utility or municipally owned utility, joint**  
27 **municipal utility commission, rural electric cooperative, or provider of cable television**  
28 **service as such term is defined in section 386.020 operating within the confines of a**  
29 **public right-of-way or easement for the purpose of inspecting, repairing, or maintaining**  
30 **utility transmission or distribution lines or other utility infrastructure, or for any work**  
31 **performed on a pipeline within the confines of a public right-of-way or easement;**
- 32           **(9) Any person performing in the course of the person's duties on behalf of a**  
33 **railroad regulated by the Federal Railroad Administration;**
- 34           **(10) Any person performing in the course of the person's duties on behalf of an**  
35 **insurance company in the normal course of business;**
- 36           **(11) Any federally certified pilot of unmanned aircraft in the normal course of**  
37 **business or federally authorized unmanned aircraft operations; and**
- 38           **(12) Any person engaged in emergency incident response on, or damage**  
39 **assessment to, the state highway system.**
- 40           **2. Sections 305.635 to 305.641 do not prohibit the operation of a model aircraft.**  
          **305.641. 1. Any aggrieved party may in a civil action obtain all appropriate**  
2 **relief to prevent or remedy a violation of sections 305.635 to 305.641.**

3           **2. No information obtained or collected in violation of sections 305.635 to**  
4 **305.641 shall be admissible as evidence in a criminal proceeding in any court of law in**  
5 **the state or in an administrative hearing.**

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

          542.525. No employee of a state agency or a political subdivision of the state shall  
2 place any surveillance camera or game camera on private property without first obtaining  
3 consent from the landowner or the landowner's designee[;] ~~or a search warrant as required by~~  
4 ~~and under Article I, Section 15 of the Constitution of Missouri or the Fourth and Fourteenth~~  
5 ~~Amendments of the Constitution of the United States[; or permission from the highest ranking~~  
6 ~~law enforcement chief or officer of the agency or political subdivision, provided that~~  
7 ~~permission of the highest ranking law enforcement chief or officer of the agency or political~~  
8 ~~subdivision is valid only when the camera is facing a location that is open to public access or~~  
9 ~~use and the camera is located within one hundred feet of the intended surveillance location].~~

          577.800. 1. A person commits the offense of unlawful use of unmanned aircraft over  
2 an open-air facility if he or she purposely:

3           (1) Operates an unmanned aircraft within a vertical distance of four hundred feet from  
4 the ground and within the property line of an open-air facility; or

5           (2) Uses an unmanned aircraft with the purpose of delivering to a person within an  
6 open-air facility any object described in subdivision (1) or (2) of subsection 4 of this section.

7           2. For purposes of this section, "open-air facility" shall mean any sports, theater,  
8 music, performing arts, or other entertainment facility with a capacity of five thousand people  
9 or more and not completely enclosed by a roof or other structure.

10          3. The provisions of this section shall not prohibit the operation of an unmanned  
11 aircraft by:

12          (1) An employee of an open-air facility at the direction of the president or chief  
13 executive officer of the open-air facility;

14          (2) A person who has written consent from the president or chief executive officer of  
15 the open-air facility;

16          (3) An employee of a law enforcement agency, fire department, or emergency  
17 medical service in the exercise of official duties;

18          (4) A government official or employee in the exercise of official duties;

19          (5) A public utility or a rural electric cooperative if:

20           (a) The unmanned aircraft is used for the purpose of inspecting, repairing, or  
21 maintaining utility transmission or distribution lines or other utility equipment or  
22 infrastructure;

23 (b) The utility or cooperative notifies the open-air facility before flying the unmanned  
24 aircraft, except during an emergency; and

25 (c) The person operating the unmanned aircraft does not physically enter the  
26 prohibited space without an escort provided by the open-air facility; or

27 (6) An employee of a railroad in the exercise of official duties on any land owned or  
28 operated by a railroad corporation regulated by the Federal Railroad Administration.

29 4. The offense of unlawful use of unmanned aircraft over an open-air facility [~~shall be~~  
30 ~~punishable as an infraction~~] **is a class A misdemeanor** unless the person uses an unmanned  
31 aircraft for:

32 (1) Delivering a gun, knife, weapon, or other article that may be used in such manner  
33 to endanger the life of an employee or guest at an open-air facility, in which case the offense  
34 is a class B felony; or

35 (2) Delivering a controlled substance, as that term is defined under section 195.010,  
36 in which case the offense is a class D felony.

37 [~~5. Each open-air facility shall post a sign warning of the provisions of this section.~~  
38 ~~The sign shall be at least eleven inches by fourteen inches and posted in a conspicuous place.]~~

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