

113TH CONGRESS
1ST SESSION

BILL NUMBER

[Purpose]: To protect individual privacy against unwarranted governmental intrusion through the use of unmanned aerial systems commonly called drones, and for other purposes.

IN THE [CHAMBER] OF THE UNITED STATES

DATE

Xx introduced the following bill; which was read twice and referred to the Committee on the
Judiciary

A BILL

To protect individual privacy against unwarranted governmental intrusion through the use of unmanned aerial systems commonly called drones, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “[Insert Short Title]”

SECTION 2. DEFINITIONS.

In this Act---

- (a) the term “unmanned aircraft” means any aircraft that is operated without the possibility of direct human intervention from within or on the aircraft (as defined in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note). and
- (b) the term “law enforcement agency” means a person or entity authorized by law, or funded by the Government of the United States, to investigate or prosecute offenses against the United States.
- (c) the term “unmanned aircraft system” means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.

- (d) the term “anti-personnel device” means any projectile, chemical substance, electrical or directed-energy emission, whether visible or invisible, designed to harm, incapacitate, or otherwise negatively impact a human being.

SEC. 3. PROHIBITED USE OF UNMANNED AIRCRAFT SYSTEMS

Except as provided in section 4, a person or entity acting under the authority, or funded in whole or in part by, the Government of the United States shall not use an unmanned aircraft for surveillance of a person within the United States or for the surveillance of personal or business property located within the borders of the United States to gather evidence or other information pertaining to criminal conduct or conduct in violation of a statute or regulation except to the extent authorized in a warrant that satisfies the requirements of the Fourth Amendment to the Constitution of the United States.

SEC. 4. EXCEPTIONS

This Act does not prohibit any use of an unmanned aircraft for surveillance during the course of the following:

- (a) **PATROL OF NATIONAL BORDERS** - The use of an unmanned aircraft to patrol within 25 miles of a national border for purposes of policing the border to prevent or deter illegal entry of any persons, illegal substances, or contraband.
- (b) **EXIGENT CIRCUMSTANCES** - The use of an unmanned aircraft by a law enforcement agency is permitted when exigent circumstances exist. For the purposes of this paragraph, exigent circumstances exist when a law enforcement agency possesses reasonable suspicion that absent swift preventative action, there is an imminent danger to life or imminent risk of threat of bodily harm.
- (c) **DURING AN ENVIRONMENTAL OR WEATHER RELATED CATASTROPHE** – The use of an unmanned aircraft by federal and state authorities to preserve public safety, protect property, and conduct surveillance for the assessment and evaluation of environmental or weather related damage, erosion, flood or contamination during a lawfully declared state of emergency.

SEC. 5. PROHIBITED SURVEILLANCE UNDER THIS ACT

This Act prohibits any use of an unmanned aircraft for the following:

- (a) **USE OF FORCE** - No Federal agency may authorize the domestic use, including granting a permit for use, of an unmanned aircraft while armed with a lethal weapon or anti-personnel device.
- (b) **DOMESTIC USE IN PRIVATE SURVEILLANCE** - No Federal agency may authorize the domestic use, including granting a permit for use, of an unmanned aircraft

to permit any private person to conduct surveillance upon any other private person without the express, informed consent of the private person or persons to be made subject to surveillance, or the owner or lessee of any real property on which that other private person is present.

(c) SURVEILLANCE OF THE EXERCISE OF 1ST AMMENDMENT RIGHTS - No Federal agency may authorize the domestic use, including granting a permit for use, of an unmanned aircraft for the purpose of the surveillance of persons engaged in the lawful exercise of First Amendment rights and or the Right of Freedom of Assembly.

SEC. 6. REMEDIES FOR VIOLATION.

Any aggrieved party may in a civil action obtain all appropriate relief to prevent or remedy a violation of this Act.

SEC. 7. PROHIBITIONS ON THE CONDUCT OF UNMANNED AIRCRAFT SURVEILLANCE AND THE USE OF ACQUIRED SURVEILLANCE AS EVIDENCE.

This Act prohibits the following:

(a) No evidence obtained or collected in violation of this Act may be admissible as evidence in a criminal prosecution during trial, at sentencing, before a grand jury, as rebuttal evidence, or during administrative hearings in any court of law in the United States.

(b) No imaging or other forms of observational data gathered by unmanned aircraft surveillance from or concerning the parties or places subjected to surveillance in violation of this Act may be preserved by law enforcement or government agencies for any purpose unless required by a Federal Court.

(c) No imaging or any other forms of data lawfully obtained under this Act for which there is not a reasonable and articulable suspicion that such images or data contain evidence of a crime, or are relevant to an ongoing investigation or trial, may be retained for more than 90 days, unless such retention is attendant to general agency guidelines regarding the retention of evidence in criminal cases. In such cases, the imaging or other data may not be distributed to agencies, entities, or individuals where such distribution is not necessary to meet general agency guidelines regarding the retention of evidence in criminal cases. A court order must be obtained before imaging or other forms of data may be retained lawfully for more than 90 days.

(d) No unmanned aircraft may conduct any type of surveillance that would violate Federal laws regarding the interception of aural communications, electronic communications and transmissions, personal location data, or the acquisition of video or still images of a person or conditions existing within a home or place without first obtaining all required warrants in compliance with the Federal or state statutes applying to such interceptions.

SEC. 8. DOCUMENTATION OF DRONE SURVEILLANCE

(a) All use of unmanned aircraft for surveillance shall be documented by the person or entity authorized to conduct the surveillance. All surveillance flights shall be documented as to:

- (i) duration, flight path;
- (ii) mission objectives, and
- (iii) the names of places or persons authorized to be subject to surveillance.

(b) This flight information noted will be certified as accurate and complete by the supervising person authorized by a court to conduct the surveillance.

(c) This flight information must be retained for a period of five years.

(d) Persons seeking relief before a court of law or an administrative agency who have been a target of unmanned aircraft surveillance may obtain by proper motion to the court all information relating to them acquired in the course of such surveillance, excepting only the operational capabilities of the unmanned aircraft, unmanned aircraft system, and other operational information strictly related to the technical conduct and physical security of the surveillance operation.