

STATE OF NEW YORK

9931

IN ASSEMBLY

February 27, 2020

Introduced by M. of A. KIM -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law, in relation to imposing limitations on the use of drones for law enforcement purposes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil rights law is amended by adding a new section 52-c to read as follows:

§ 52-c. Limitations on the use of drones; law enforcement purposes. 1. The use of drones to observe, monitor, document, record, investigate, or collect data by law enforcement at concerts, protests, demonstrations, or other actions protected by the first amendment to the United States Constitution or sections eight and nine of article one of the state constitution is prohibited.

2. People have a reasonable expectation of privacy and a constitutional right to be free from warrantless observation, monitoring, documentation, recording, or investigation by a drone. A search warrant, issued upon a finding of probable cause, shall be required for any use of drones for law enforcement purposes that is not specifically prohibited by subdivision one of this section. A search warrant cannot permit the use of drones for the purposeful or incidental observation, documentation, recording, investigation, or collection of data by law enforcement at concerts, protests, demonstrations, or other actions protected by the first amendment to the United States Constitution or sections eight and nine of article one of the state constitution.

3. The use for law enforcement purposes of any drone owned, controlled, or maintained by a private company, private individual, or other government agency shall be subject to the provisions of subdivisions one and two of this section. A search warrant, issued upon a finding of probable cause, shall be required for law enforcement to obtain any data or information obtained by a drone that is owned, controlled, or maintained by a private company, private individual, or other government agency. A search warrant cannot authorize obtaining any data or information relating to the purposeful or incidental observation,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 documentation, recording, investigation, or collection of data at
2 concerts, protests, demonstrations, or other actions protected by the
3 first amendment to the United States Constitution or sections eight and
4 nine of article one of the state constitution except in the investi-
5 gation or prosecution for violations of subdivisions one or two of this
6 section.

7 4. Law enforcement is prohibited from using drones equipped with
8 facial recognition software or using facial recognition on video or
9 images obtained or created by a drone, including videos or images
10 obtained or created by drones owned, controlled, or maintained by a
11 private company, a private individual, or other government agency. This
12 section shall retroactively apply to videos or images obtained or
13 created by drones prior to the effective date of this section.

14 5. Drones equipped with devices used for crowd control purposes or any
15 lethal or non-lethal weapons are prohibited.

16 6. Data or information obtained by drones and within the control of
17 any government agency or in the possession of a private company or indi-
18 vidual on behalf of any government agency shall be subject to release
19 under the freedom of information law, provided that all personal identi-
20 ifying information, except for that of law enforcement personnel acting
21 within their official responsibilities or performing an official func-
22 tion, shall be redacted prior to such release.

23 7. All data or information obtained by the use of drones for law
24 enforcement purposes that are not part of an ongoing criminal investi-
25 gation or proceeding shall be destroyed in one year or less, absent a
26 subpoena or court order. Data or information not destroyed in one year
27 or less pursuant to a subpoena or court order and that is within the
28 control of any government agency or in the possession of a private
29 company or individual on behalf of any government agency shall be
30 destroyed once the proceedings or investigations that the subpoena or
31 court order related to have ended.

32 8. As used in this section:

33 a. "Drone" means an aerial vehicle or a balloon float or other device
34 that:

35 (1) does not carry a human operator;

36 (2) uses aerodynamic forces or gases to provide lift;

37 (3) can fly autonomously or be piloted remotely;

38 (4) can be expendable or recoverable;

39 (5) captures images of objects or people on the ground and in the air;

40 (6) intercepts communications on the ground and in the air; and/or

41 (7) can carry a lethal or non-lethal payload.

42 b. "Law enforcement" means a lawfully established state or local
43 public agency that is responsible for the prevention and detection of
44 crime, the enforcement of local government codes and the enforcement of
45 penal, traffic, regulatory, game or controlled substance laws and
46 includes an agent of the law enforcement agency.

47 c. "Search warrant" means a search warrant as defined in section
48 690.05 of the criminal procedure law.

49 § 2. This act shall take effect immediately.