

6541

2013-2014 Regular Sessions

I N A S S E M B L Y

April 4, 2013

Introduced by M. of A. ENGLEBRIGHT, COOK, SEPULVEDA -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law, in relation to the use of unmanned aerial vehicles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings. The legislature hereby finds that:

(a) unmanned aerial vehicle technology has begun expanding out of its traditional military markets and into civilian markets;

(b) Congress has ordered the Federal Aviation Administration to integrate unmanned aerial vehicles into the air traffic control system by 2015;

(c) 81 agencies across the United States have applied to the Federal Aviation Administration for licenses to operate unmanned aerial vehicles;

(d) the use of unmanned aerial vehicles represents both a great tool for law enforcement and a great risk to civil liberties; and

(e) legislation is required to ensure that the future use of unmanned aerial vehicles complies with the level of privacy that New Yorkers have come to expect in their lives.

S 2. The civil rights law is amended by adding a new article 6-A to read as follows:

ARTICLE 6-A

USE OF UNMANNED AERIAL

VEHICLES

SECTION 66. USE OF UNMANNED AERIAL VEHICLES; DEFINITION.

66-A. LAWFUL USE OF UNMANNED AERIAL VEHICLES.

66-B. DATA RETENTION.

66-C. ADMINISTRATIVE DISCIPLINE FOR MISUSE OF UNMANNED AERIAL VEHICLES.

66-D. REPORTING.

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

LBD10034-02-3

1 S 66. USE OF UNMANNED AERIAL VEHICLES; DEFINITION. AS USED IN THIS
2 ARTICLE, "UNMANNED AERIAL VEHICLE" MEANS ANY AIRCRAFT THAT IS OPERATED
3 WITHOUT THE POSSIBILITY OF DIRECT HUMAN INTERVENTION FROM WITHIN OR ON
4 THE AIRCRAFT.

5 S 66-A. LAWFUL USE OF UNMANNED AERIAL VEHICLES. 1. EVERY USE OF
6 UNMANNED AERIAL VEHICLES SHALL FULLY COMPLY WITH ALL FEDERAL AVIATION
7 ADMINISTRATION REQUIREMENTS AND GUIDELINES, AND ACQUISITION OF UNMANNED
8 AERIAL VEHICLES BY LAW ENFORCEMENT AGENCIES MUST BE APPROVED BY THE
9 GOVERNING BODY OF THE POLITICAL SUBDIVISION OVERSEEING THE LAW ENFORCE-
10 MENT AGENCY SEEKING TO ACQUIRE THE UNMANNED AERIAL VEHICLES.

11 2. EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION, IT IS
12 UNLAWFUL FOR AN AGENT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF
13 TO OPERATE AN UNMANNED AERIAL VEHICLE, OR TO DISCLOSE OR RECEIVE INFOR-
14 MATION ACQUIRED THROUGH THE OPERATION OF AN UNMANNED AERIAL VEHICLE.

15 3. THE FOLLOWING SHALL BE EXCEPTIONS FROM THE PROHIBITION ESTABLISHED
16 IN SUBDIVISION TWO OF THIS SECTION:

17 (A) IT SHALL NOT BE UNLAWFUL PURSUANT TO THIS SECTION TO DISCLOSE OR
18 RECEIVE INFORMATION ABOUT ANY PERSON OR THEIR REAL PROPERTY ACQUIRED
19 THROUGH THE OPERATION OF AN UNMANNED AERIAL VEHICLE IF SUCH PERSON HAS
20 GIVEN WRITTEN CONSENT TO SUCH DISCLOSURE;

21 (B) IT SHALL NOT BE UNLAWFUL PURSUANT TO THIS SECTION FOR AN AGENT OF
22 THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO OPERATE AN UNMANNED
23 AERIAL VEHICLE AND FOR INFORMATION FROM SUCH OPERATION TO BE DISCLOSED
24 OR RECEIVED IF THE UNMANNED AERIAL VEHICLE IS USED IN CIRCUMSTANCES IN
25 WHICH IT IS REASONABLE TO BELIEVE THAT THERE IS AN IMMINENT THREAT TO
26 THE LIFE OR SAFETY OF A PERSON, AND TO THEREBY ASSIST SUCH PERSON,
27 PROVIDED THAT NOT LATER THAN FORTY-EIGHT HOURS AFTER THE AGENT OF THE
28 STATE OR ANY POLITICAL SUBDIVISION THEREOF BEGINS OPERATION OF THE
29 UNMANNED AERIAL VEHICLE, A SUPERVISORY OFFICIAL OF THE STATE OR SUCH
30 POLITICAL SUBDIVISION SHALL FILE THE SWORN STATEMENT WITH A COURT HAVING
31 JURISDICTION OVER THE AREA OF THE EMERGENCY SETTING FORTH THE FACTUAL
32 BASIS AND GROUNDS FOR THE EMERGENCY ACCESS;

33 (C) PURSUANT TO THE FOLLOWING WARRANTS:

34 (1) EAVESDROPPING WARRANT. AN UNMANNED AERIAL VEHICLE MAY BE OPERATED
35 FOR THE PURPOSE OF EAVESDROPPING, AND INFORMATION FROM SUCH OPERATION
36 DISCLOSED ONLY PURSUANT TO AN EAVESDROPPING WARRANT ISSUED PURSUANT TO
37 AND REGULATED BY ARTICLE SEVEN HUNDRED OF THE CRIMINAL PROCEDURE LAW.

38 (2) VIDEO SURVEILLANCE WARRANT. AN UNMANNED AERIAL VEHICLE MAY BE
39 OPERATED FOR THE PURPOSE OF VIDEO SURVEILLANCE, AND INFORMATION FROM
40 SUCH OPERATION DISCLOSED ONLY PURSUANT TO A VIDEO SURVEILLANCE WARRANT
41 ISSUED PURSUANT TO AND REGULATED BY ARTICLE SEVEN HUNDRED OF THE CRIMI-
42 NAL PROCEDURE LAW.

43 A JUDGE MAY ISSUE SUCH WARRANTS SIMULTANEOUSLY OR INDIVIDUALLY AS HE
44 OR SHE SEES FIT.

45 (D) IT SHALL NOT BE UNLAWFUL PURSUANT TO THIS SECTION FOR AN AGENT OF
46 THE STATE OR ANY POLITICAL SUBDIVISION THEREOF TO OPERATE AN UNMANNED
47 AERIAL VEHICLE FOR RESEARCH IN AREAS SUCH AS, BUT NOT LIMITED TO, ATMO-
48 SPHERIC STUDIES, AGRICULTURAL STUDIES AND LAND USE STUDIES. PROVIDED
49 THAT NO PART OF ANY INFORMATION AND NO EVIDENCE DERIVED FROM SUCH OPERA-
50 TION MAY BE RECEIVED AS EVIDENCE IN ANY TRIAL, HEARING OR OTHER PROCEED-
51 ING IN OR BEFORE ANY COURT, GRAND JURY, DEPARTMENT, OFFICER, AGENCY,
52 REGULATORY ENFORCEMENT BODY, OR OTHER DISCIPLINARY AUTHORITY OF THE
53 STATE OR A POLITICAL SUBDIVISION THEREOF, OR FOR ANY INTELLIGENCE
54 PURPOSE.

55 4. WHEN UNMANNED AERIAL VEHICLES ARE USED PURSUANT TO PARAGRAPH (C) OF
56 SUBDIVISION THREE OF THIS SECTION, THEY SHALL BE OPERATED IN A MANNER TO

1 COLLECT DATA ONLY ON THE TARGET AND TO AVOID DATA COLLECTION ON INDIVID-
2 UALS, HOMES OR AREAS OTHER THAN THE TARGET. NEITHER FACIAL RECOGNITION
3 NOR OTHER BIOMETRIC MATCHING TECHNOLOGY SHALL BE USED ON NON-TARGET DATA
4 COLLECTED BY AN UNMANNED AERIAL VEHICLE.

5 5. NO UNMANNED AERIAL VEHICLE OPERATED IN THE STATE SHALL BE EQUIPPED
6 WITH ANY LETHAL OR NON-LETHAL WEAPON.

7 S 66-B. DATA RETENTION. 1. NO DATA COLLECTED PURSUANT TO PARAGRAPH
8 (A), (B) OR (C) OF SUBDIVISION THREE OF SECTION SIXTY-SIX-A OF THIS
9 ARTICLE ON AN INDIVIDUAL HOME OR AREA OTHER THAN THE TARGET THAT JUSTI-
10 FIED DEPLOYMENT MAY BE USED, COPIED OR DISCLOSED FOR ANY PURPOSE. SUCH
11 DATA SHALL BE DELETED AS SOON AS POSSIBLE, AND IN NO EVENT LATER THAN
12 TWENTY-FOUR HOURS AFTER COLLECTION.

13 2. WHENEVER AN AGENT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF
14 USES AN UNMANNED AERIAL VEHICLE, NO PART OF THE INFORMATION ACQUIRED AND
15 NO EVIDENCE DERIVED THEREFROM SHALL BE RECEIVED IN EVIDENCE IN ANY
16 TRIAL, HEARING OR OTHER PROCEEDING IN OR BEFORE ANY COURT, GRAND JURY,
17 DEPARTMENT, OFFICER, AGENCY, REGULATORY BODY, LEGISLATIVE COMMITTEE, OR
18 OTHER AUTHORITY OF THE STATE OR A POLITICAL SUBDIVISION THEREOF IF THE
19 DISCLOSURE OF THAT INFORMATION IS IN VIOLATION OF THIS ARTICLE.

20 S 66-C. ADMINISTRATIVE DISCIPLINE FOR MISUSE OF UNMANNED AERIAL VEHI-
21 CLES. 1. IF A COURT OR APPROPRIATE DEPARTMENT OR AGENCY DETERMINES THAT
22 AN AGENT OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF HAS VIOLATED
23 ANY PROVISION OF THIS ARTICLE, AND THE COURT OR APPROPRIATE DEPARTMENT
24 OR AGENCY FINDS THAT THE CIRCUMSTANCES SURROUNDING THE VIOLATION RAISE
25 SERIOUS QUESTIONS ABOUT WHETHER OR NOT THE AGENT OF THE STATE OR POLI-
26 TICAL SUBDIVISION THEREOF ACTED WILLFULLY OR INTENTIONALLY WITH RESPECT
27 TO THE VIOLATION, THE DEPARTMENT OR AGENCY SHALL, UPON RECEIPT OF A TRUE
28 AND CORRECT COPY OF THE DECISION AND FINDINGS OF THE COURT OR APPROPRI-
29 ATE DEPARTMENT OR AGENCY PROMPTLY INITIATE A PROCEEDING TO DETERMINE
30 WHETHER DISCIPLINARY ACTION AGAINST THE AGENT OF THE STATE OR POLITICAL
31 SUBDIVISION THEREOF IS WARRANTED. IF THE HEAD OF THE DEPARTMENT OR AGEN-
32 CY INVOLVED DETERMINES THAT DISCIPLINARY ACTION IS NOT WARRANTED, SUCH
33 HEAD SHALL NOTIFY THE STATE INSPECTOR GENERAL WITH JURISDICTION OVER THE
34 DEPARTMENT OR AGENCY CONCERNED AND SHALL PROVIDE THE STATE INSPECTOR
35 GENERAL WITH THE REASONS FOR SUCH DETERMINATION.

36 2. ANY WILLFUL DISCLOSURE OR USE BY AN AGENT OF THE STATE OR ANY POLI-
37 TICAL SUBDIVISION THEREOF OF INFORMATION BEYOND THE EXTENT PERMITTED BY
38 THIS ARTICLE IS A VIOLATION OF THIS ARTICLE FOR PURPOSES OF THIS
39 SECTION.

40 S 66-D. REPORTING. ON OR BEFORE JUNE FIRST EACH YEAR, ANY AGENCY OF
41 THE STATE OR POLITICAL SUBDIVISION THEREOF THAT USES UNMANNED AERIAL
42 VEHICLES SHALL REPORT TO THE LEGISLATURE AND MAKE PUBLIC ON ITS WEBSITE:

43 1. THE NUMBER OF TIMES AN UNMANNED AERIAL VEHICLE WAS USED, ORGANIZED
44 BY THE TYPES OF INCIDENTS AND THE TYPES OF JUSTIFICATION FOR DEPLOYMENT;

45 2. THE NUMBER OF CRIME INVESTIGATIONS AIDED BY THE USE OF UNMANNED
46 AERIAL VEHICLES, AND A DESCRIPTION OF HOW THE UNMANNED AERIAL VEHICLE
47 WAS HELPFUL TO EACH SUCH INVESTIGATION;

48 3. THE NUMBER OF USES OF UNMANNED AERIAL VEHICLES FOR REASONS OTHER
49 THAN CRIMINAL INVESTIGATIONS, AND A DESCRIPTION OF HOW THE UNMANNED
50 AERIAL VEHICLE WAS HELPFUL IN EACH SUCH INSTANCE;

51 4. THE FREQUENCY AND TYPE OF DATA COLLECTED ON INDIVIDUALS OR AREAS
52 OTHER THAN TARGETS; AND

53 5. THE TOTAL COST OF THEIR UNMANNED AERIAL VEHICLE PROGRAM.

54 S 3. This act shall take effect immediately.