

# STATE OF NEW YORK

4030

2019-2020 Regular Sessions

## IN ASSEMBLY

January 31, 2019

Introduced by M. of A. ENGLEBRIGHT, COOK, GALEF -- Multi-Sponsored by --  
M. of A. LENTOL, PERRY -- 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 Assem-  
bly, do enact as follows:

- 1 Section 1. Legislative findings. The legislature hereby finds that:  
2 (a) unmanned aerial vehicle technology has begun expanding out of its  
3 traditional military markets and into civilian markets;  
4 (b) Congress has ordered the Federal Aviation Administration to inte-  
5 grate unmanned aerial vehicles into the air traffic control system by  
6 2015;  
7 (c) 81 agencies across the United States have applied to the Federal  
8 Aviation Administration for licenses to operate unmanned aerial vehi-  
9 cles;  
10 (d) the use of unmanned aerial vehicles represents both a great tool  
11 for law enforcement and a great risk to civil liberties; and  
12 (e) legislation is required to ensure that the future use of unmanned  
13 aerial vehicles complies with the level of privacy that New Yorkers have  
14 come to expect in their lives.  
15 § 2. The civil rights law is amended by adding a new article 6-A to  
16 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.

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

LBD07132-01-9

1           66-d. Reporting.

2           § 66. Use of unmanned aerial vehicles; definition. As used in this  
3 article, "unmanned aerial vehicle" means any aircraft that is operated  
4 without the possibility of direct human intervention from within or on  
5 the aircraft.

6           § 66-a. Lawful use of unmanned aerial vehicles. 1. Every use of  
7 unmanned aerial vehicles shall fully comply with all Federal Aviation  
8 Administration requirements and guidelines, and acquisition of unmanned  
9 aerial vehicles by law enforcement agencies must be approved by the  
10 governing body of the political subdivision overseeing the law enforce-  
11 ment agency seeking to acquire the unmanned aerial vehicles.

12           2. Except as provided in subdivision three of this section, it is  
13 unlawful for an agent of the state or any political subdivision thereof  
14 to operate an unmanned aerial vehicle, or to disclose or receive infor-  
15 mation acquired through the operation of an unmanned aerial vehicle.

16           3. The following shall be exceptions from the prohibition established  
17 in subdivision two of this section:

18           (a) It shall not be unlawful pursuant to this section to disclose or  
19 receive information about any person or their real property acquired  
20 through the operation of an unmanned aerial vehicle if such person has  
21 given written consent to such disclosure;

22           (b) It shall not be unlawful pursuant to this section for an agent of  
23 the state or any political subdivision thereof to operate an unmanned  
24 aerial vehicle and for information from such operation to be disclosed  
25 or received if the unmanned aerial vehicle is used in circumstances in  
26 which it is reasonable to believe that there is an imminent threat to  
27 the life or safety of a person, and to thereby assist such person,  
28 provided that not later than forty-eight hours after the agent of the  
29 state or any political subdivision thereof begins operation of the  
30 unmanned aerial vehicle, a supervisory official of the state or such  
31 political subdivision shall file the sworn statement with a court having  
32 jurisdiction over the area of the emergency setting forth the factual  
33 basis and grounds for the emergency access;

34           (c) Pursuant to the following warrants:

35           (1) Eavesdropping warrant. An unmanned aerial vehicle may be operated  
36 for the purpose of eavesdropping, and information from such operation  
37 disclosed only pursuant to an eavesdropping warrant issued pursuant to  
38 and regulated by article seven hundred of the criminal procedure law.

39           (2) Video surveillance warrant. An unmanned aerial vehicle may be  
40 operated for the purpose of video surveillance, and information from  
41 such operation disclosed only pursuant to a video surveillance warrant  
42 issued pursuant to and regulated by article seven hundred of the crimi-  
43 nal procedure law.

44           A judge may issue such warrants simultaneously or individually as he  
45 or she sees fit.

46           (d) It shall not be unlawful pursuant to this section for an agent of  
47 the state or any political subdivision thereof to operate an unmanned  
48 aerial vehicle for research in areas such as, but not limited to, atmo-  
49 spheric studies, agricultural studies and land use studies. Provided  
50 that no part of any information and no evidence derived from such opera-  
51 tion may be received as evidence in any trial, hearing or other proceed-  
52 ing in or before any court, grand jury, department, officer, agency,  
53 regulatory enforcement body, or other disciplinary authority of the  
54 state or a political subdivision thereof, or for any intelligence  
55 purpose.

1 4. When unmanned aerial vehicles are used pursuant to paragraph (c) of  
2 subdivision three of this section, they shall be operated in a manner to  
3 collect data only on the target and to avoid data collection on individ-  
4 uals, homes or areas other than the target. Neither facial recognition  
5 nor other biometric matching technology shall be used on non-target data  
6 collected by an unmanned aerial vehicle.

7 5. No unmanned aerial vehicle operated in the state shall be equipped  
8 with any lethal or non-lethal weapon.

9 § 66-b. Data retention. 1. No data collected pursuant to paragraph  
10 (a), (b) or (c) of subdivision three of section sixty-six-a of this  
11 article on an individual home or area other than the target that justi-  
12 fied deployment may be used, copied or disclosed for any purpose. Such  
13 data shall be deleted as soon as possible, and in no event later than  
14 twenty-four hours after collection.

15 2. Whenever an agent of the state or any political subdivision thereof  
16 uses an unmanned aerial vehicle, no part of the information acquired and  
17 no evidence derived therefrom shall be received in evidence in any  
18 trial, hearing or other proceeding in or before any court, grand jury,  
19 department, officer, agency, regulatory body, legislative committee, or  
20 other authority of the state or a political subdivision thereof if the  
21 disclosure of that information is in violation of this article.

22 § 66-c. Administrative discipline for misuse of unmanned aerial vehi-  
23 cles. 1. If a court or appropriate department or agency determines that  
24 an agent of the state or any political subdivision thereof has violated  
25 any provision of this article, and the court or appropriate department  
26 or agency finds that the circumstances surrounding the violation raise  
27 serious questions about whether or not the agent of the state or poli-  
28 tical subdivision thereof acted willfully or intentionally with respect  
29 to the violation, the department or agency shall, upon receipt of a true  
30 and correct copy of the decision and findings of the court or appropri-  
31 ate department or agency promptly initiate a proceeding to determine  
32 whether disciplinary action against the agent of the state or political  
33 subdivision thereof is warranted. If the head of the department or agen-  
34 cy involved determines that disciplinary action is not warranted, such  
35 head shall notify the state inspector general with jurisdiction over the  
36 department or agency concerned and shall provide the state inspector  
37 general with the reasons for such determination.

38 2. Any willful disclosure or use by an agent of the state or any poli-  
39 tical subdivision thereof of information beyond the extent permitted by  
40 this article is a violation of this article for purposes of this  
41 section.

42 § 66-d. Reporting. On or before June first each year, any agency of  
43 the state or political subdivision thereof that uses unmanned aerial  
44 vehicles shall report to the legislature and make public on its website:

45 1. the number of times an unmanned aerial vehicle was used, organized  
46 by the types of incidents and the types of justification for deployment;

47 2. the number of crime investigations aided by the use of unmanned  
48 aerial vehicles, and a description of how the unmanned aerial vehicle  
49 was helpful to each such investigation;

50 3. the number of uses of unmanned aerial vehicles for reasons other  
51 than criminal investigations, and a description of how the unmanned  
52 aerial vehicle was helpful in each such instance;

53 4. the frequency and type of data collected on individuals or areas  
54 other than targets; and

55 5. the total cost of their unmanned aerial vehicle program.

56 § 3. This act shall take effect immediately.