

STATE OF NEW YORK

6435

2019-2020 Regular Sessions

IN SENATE

June 11, 2019

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

1 Section 1. The civil rights law is amended by adding a new section
2 52-b to read as follows:

3 § 52-b. Limitations on the use of drones; law enforcement purposes. 1.
4 The use of drones to observe, monitor, document, record, investigate, or
5 collect data by law enforcement at protests, demonstrations, or other
6 actions protected by the first amendment to the United States Constitu-
7 tion or sections eight and nine of article one of the state constitution
8 is prohibited.

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

20 3. The use for law enforcement purposes of any drone owned,
21 controlled, or maintained by a private company, private individual, or
22 other government agency shall be subject to the provisions of subdivi-
23 sions one and two of this section. A search warrant, issued upon a find-
24 ing of probable cause, shall be required for law enforcement to obtain
25 any data or information obtained by a drone that is owned, controlled,

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

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1 or maintained by a private company, private individual, or other govern-
2 ment agency. A search warrant cannot authorize obtaining any data or
3 information relating to the purposeful or incidental observation,
4 documentation, recording, investigation, or collection of data at
5 protests, demonstration, or other actions protected by the first amend-
6 ment to the United States Constitution or sections eight and nine of
7 article one of the state constitution except in the investigation or
8 prosecution for violations of subdivisions one or two of this section.

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

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

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

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

34 8. As used in this section:

35 a. "Drone" means an aerial vehicle or a balloon float or other device
36 that:

37 (1) does not carry a human operator;

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

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

40 (4) can be expendable or recoverable;

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

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

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

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

49 c. "Search warrant" means a search warrant as defined in section
50 690.05 of the criminal procedure law.

51 § 2. This act shall take effect immediately.