

# 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.