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A BILL FOR AN ACT

RELATING TO UNMANNED AERIAL VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1

2 SECTION 1. The legislature finds that unmanned aerial
3 vehicles are becoming increasingly popular in Hawaii and the
4 rest of the United States. Hobbyists use them for recreational
5 purposes, and businesses and government entities use them in a
6 plethora of ways that benefit society and individual
7 residents. The federal government is regulating the use of
8 these devices as the airways see more usage by all stakeholders.

9 The purpose of this Act is to establish unmanned aerial
10 vehicle laws and rules that complement federal rules and
11 regulations.

12 SECTION 2. The Hawaii Revised Statutes is amended by adding
13 a new chapter to be appropriately designated and to read as
14 follows:

15

"CHAPTER

16

UNMANNED AERIAL VEHICLES

17

§ -1 Definitions. As used in this chapter:

1 "Department" means the department of commerce and consumer
2 affairs.

3 "Director" means the director of commerce and consumer
4 affairs.

5 "Operator" means any person using or operating an unmanned
6 aerial vehicle.

7 "Personal information" means all information that:

8 (1) Describes, locates, or indexes information or data
9 relating to a person, including but not limited to
10 physical location, social security number, driver's
11 license number, government-issued identification
12 number, student identification number, real or
13 personal property holdings identified in tax filings,
14 educational records, financial transactions, medical
15 history, ancestry, religious affiliation, political
16 ideology or affiliation, criminal record, or
17 employment history;

18 (2) Affords a basis for inferring personal
19 characteristics, such as facial recognition and other
20 biometric identification technology, fingerprints,
21 voiceprints, or photographs; or

1 (3) Indicates a person's membership in or association with
2 an organization, participation in an activity, or
3 admission or entrance to an institution or facility.

4 "Unmanned aerial vehicle" means a powered vehicle that does
5 not carry a human operator, uses aerodynamic forces to provide
6 vehicle lift, can fly autonomously or be piloted remotely, and
7 can be expendable or recoverable. "Unmanned aerial vehicle" does
8 not include a remote controlled airplane.

9 **§ -2 Powers and duties of the director.** In addition to
10 any other powers and duties authorized by law, the director
11 shall:

- 12 (1) Adopt, amend, or repeal rules as the director deems
13 proper to fully effectuate this chapter;
14 (2) Impose a fine on an operator for any cause prescribed
15 by this chapter, or for any violation of this chapter
16 or any rule adopted pursuant to this chapter; and
17 (3) Investigate the use of any unmanned aerial vehicle
18 reported to be in violation of this chapter or any
19 rule adopted pursuant to this chapter.

20 **§ -3 Prohibited acts; penalty.** (a) No person shall
21 operate an unmanned aerial vehicle:

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- 1 (1) In violation of chapter 263 or any applicable federal
- 2 law and Federal Aviation Administration regulations
- 3 relating to the operation of unmanned aerial vehicles;
- 4 (2) Within five miles of an airport;
- 5 (3) Within five hundred feet of an emergency response
- 6 vehicle or first responder during an emergency, unless
- 7 the unmanned aerial vehicle is operated pursuant to
- 8 section -4(b);
- 9 (4) To intentionally collect personal information or
- 10 intentionally publish or distribute personal
- 11 information acquired through the operation of an
- 12 unmanned aerial vehicle without express written
- 13 consent from the person whose personal information is
- 14 acquired;
- 15 (5) At an altitude higher than four hundred feet above
- 16 ground level;
- 17 (6) Outside the visual line of sight of the operator. The
- 18 operator shall use natural vision to maintain at all
- 19 times an unobstructed view of the unmanned aerial
- 20 vehicle without the use of vision enhancing devices,
- 21 including but not limited to binoculars, night vision

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1 goggles, powered vision magnifying devices, or similar
2 devices;

3 (7) In a manner that interferes with, or fails to give way
4 to, any manned aircraft;

5 (8) Whenever weather conditions impair the operator's
6 ability to safely operate the unmanned aerial vehicle;

7 (9) Over any open air assembly unit, school, school yard,
8 hospital, place of worship, prison, or police station
9 without the property owner's written consent and
10 subject to any restrictions that the property owner
11 may impose on the operation of the unmanned aerial
12 vehicle;

13 (10) (A) Within five hundred feet of any water intake
14 facility or any electric generating facility,
15 substation, or control center;

16 (B) Within one hundred feet of any electric
17 transmission facility; or

18 (C) Within twenty-five feet of any electric
19 distribution facility or of any overhead cable,
20 wire, conveyor, or similar equipment for the
21 transmission of sounds or signals, or of heat,

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1 light, or power, or of data, upon or along any
2 public way within the city,
3 without the facility or equipment owner's written
4 consent and subject to any restrictions that the
5 facility or equipment owner may impose on the
6 operation of the unmanned aerial vehicle;

7 (11) While under the influence of any intoxicating liquor
8 as defined in section 281-1, intoxicating compound as
9 defined in section 712-1240, or other drug, or any
10 combination thereof;

11 (12) With the intent to use the unmanned aerial vehicle or
12 anything attached to it to cause harm to persons or
13 property;

14 (13) In a reckless or careless manner; or

15 (14) In violation of any federal or state law.

16 (b) All data and personal information collected through
17 the use of an unmanned aerial vehicle shall not be used or
18 repurposed for any purpose other than the original purpose for
19 which the data or personal information was collected.

20 (c) Any person who operates an unmanned aerial vehicle in
21 violation of this chapter shall pay a civil penalty of \$
22 for each separate offense.

1 (d) All penalties collected by the department shall be
2 deposited into the compliance resolution fund under section
3 26-9(o) for the purpose of enforcing this chapter.

4 **§ -4 Prohibited uses by law enforcement agencies;**

5 **exceptions.** (a) No law enforcement agency shall use an
6 unmanned aerial vehicle to gather evidence or other information
7 pertaining to criminal conduct or conduct in violation of a
8 statute, ordinance, or administrative rule without first
9 obtaining a warrant.

10 (b) Notwithstanding subsection (a) and in addition to the
11 authorized activities under section -5, a law enforcement or
12 public safety agency may deploy an unmanned aerial vehicle for
13 the following purposes:

14 (1) When there is a reasonable belief that an emergency
15 situation exists, whether or not the situation
16 involves criminal activity, and the use of an unmanned
17 aerial vehicle is necessary to prevent immediate
18 danger of death or serious physical injury to any
19 person;

20 (2) To conduct a search and rescue operation where the use
21 of an unmanned aerial vehicle is determined to be

1 necessary to alleviate an immediate danger to any
2 person;

3 (3) To respond to a hostage situation; or

4 (4) To conduct training exercises related to any of the
5 purposes in this subsection.

6 **§ -5 Public agency exceptions.** Nothing in this
7 chapter shall prohibit the use of unmanned aerial vehicles by a
8 public agency:

9 (1) To conduct environmental or disaster response,
10 including but not limited to disaster relief, victim
11 recovery or search and rescue, and monitoring,
12 inspection, underwater repair, or structural damage
13 assessments;

14 (2) To dispose of a suspected or actual explosive device;

15 (3) To monitor plant or animal populations;

16 (4) To conduct atmospheric testing or monitoring;

17 (5) For farming and agricultural uses;

18 (6) To review traffic congestion and conditions;

19 (7) To survey or inspect public lands and property; or

20 (8) To survey the ocean and coastline.

21 **§ -6 Weapons; prohibited.** In no case shall a person
22 or public agency equip an unmanned aerial vehicle with a weapon

1 or deploy an unmanned aerial vehicle that is equipped with a
2 weapon.

3 For the purpose of this section, "weapon" means any device
4 designed to harm or incapacitate a human being by use of a
5 projectile, explosive, biological or chemical agent,
6 electricity, visible or invisible directed energy, radiation, or
7 any other means.

8 **§ -7 Civil cause of action; remedies.** (a) An
9 individual shall have a civil cause of action against any person
10 that collects, publishes, or distributes the individual's
11 personal information in violation of this chapter.

12 (b) In any civil action brought under this section, if the
13 court finds a violation, the court may award:

- 14 (1) Injunctive relief;
- 15 (2) Equitable relief;
- 16 (3) Compensatory damages;
- 17 (4) Punitive damages, except as prohibited by section
18 662-2;
- 19 (5) Costs of the action; and
- 20 (6) Reasonable attorney's fees."

1 SECTION 3. Chapter 711, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§711- Unmanned aerial vehicles; prohibited acts. (1)**

5 It shall be unlawful for any person to intentionally, knowingly,
6 or recklessly use an unmanned aerial vehicle to record or
7 photograph a person in a private place without the consent of
8 the person for the purpose of spying on the person or invading
9 the privacy of another person with an unlawful purpose, under
10 circumstances in which a reasonable person in the private place
11 would not expect to be observed.

12 (2) Violation of this section is a misdemeanor. In
13 addition to any penalties the court may impose, the court may
14 order the destruction of any recording or photograph made in
15 violation of this section."

16 SECTION 4. Section 711-1100, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding a new definition to be appropriately
19 inserted and to read:

20 "Unmanned aerial vehicle" means a powered vehicle that
21 does not carry a human operator, uses aerodynamic forces to

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1 provide vehicle lift, can fly autonomously or be piloted
2 remotely, and can be expendable or recoverable."

3 2. By amending the definition of "record" to read:

4 "Record", for the purposes of sections 711-1110.9 [~~and~~],
5 711-1111, and 711-_____, means to videotape, film, photograph, or
6 archive electronically or digitally."

7 SECTION 5. Section 711-1110.9, Hawaii Revised Statutes, is
8 amended by amending subsection (1) to read as follows:

9 "(1) A person commits the offense of violation of privacy
10 in the first degree if, except in the execution of a public duty
11 or as authorized by law:

12 (a) The person intentionally or knowingly installs or
13 uses, or both, in any private place, without consent
14 of the person or persons entitled to privacy therein,
15 any device, including an unmanned aerial vehicle, for
16 observing, recording, amplifying, or broadcasting
17 another person in a stage of undress or sexual
18 activity in that place; or

19 (b) The person knowingly discloses an image or video of
20 another identifiable person either in the nude, as
21 defined in section 712-1210, or engaging in sexual
22 conduct, as defined in section 712-1210, without the

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1 consent of the depicted person, with intent to harm
2 substantially the depicted person with respect to that
3 person's health, safety, business, calling, career,
4 financial condition, reputation, or personal
5 relationships; provided that:

6 (i) This paragraph shall not apply to images or
7 videos of the depicted person made:

8 (A) When the person was voluntarily nude in
9 public or voluntarily engaging in sexual
10 conduct in public; or

11 (B) Pursuant to a voluntary commercial
12 transaction; and

13 (ii) Nothing in this paragraph shall be construed to
14 impose liability on a provider of "electronic
15 communication service" or "remote computing
16 service" as those terms are defined in section
17 803-41, for an image or video disclosed through
18 the electronic communication service or remote
19 computing service by another person."

20 SECTION 6. Section 711-1111, Hawaii Revised Statutes, is
21 amended by amending subsection (1) to read as follows:

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1 "(1) A person commits the offense of violation of privacy
2 in the second degree if, except in the execution of a public
3 duty or as authorized by law, the person intentionally:

4 (a) Trespasses on property for the purpose of subjecting
5 anyone to eavesdropping or other surveillance in a
6 private place;

7 (b) Peers or peeps into a window or other opening of a
8 dwelling or other structure adapted for sojourn or
9 overnight accommodations for the purpose of spying on
10 the occupant thereof or invading the privacy of
11 another person with a lewd or unlawful purpose, under
12 circumstances in which a reasonable person in the
13 dwelling or other structure would not expect to be
14 observed;

15 (c) Trespasses on property for the sexual gratification of
16 the actor;

17 (d) Installs or uses, or both, in any private place,
18 without consent of the person or persons entitled to
19 privacy therein, any means or device, including an
20 unmanned aerial vehicle, for observing, recording,
21 amplifying, or broadcasting sounds or events in that
22 place other than another person in a stage of undress

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1 or sexual activity; provided that this paragraph shall
2 not prohibit a person from making a video or audio
3 recording or taking a photograph of a law enforcement
4 officer while the officer is in the performance of the
5 officer's duties in a public place or under
6 circumstances in which the officer has no reasonable
7 expectation of privacy and the person is not
8 interfering with the officer's ability to maintain
9 safety and control, secure crime scenes and accident
10 sites, protect the integrity and confidentiality of
11 investigations, and protect the public safety and
12 order;

13 (e) Installs or uses outside a private place any device,
14 including an unmanned aerial vehicle, for hearing,
15 recording, amplifying, or broadcasting sounds
16 originating in that place which would not ordinarily
17 be audible or comprehensible outside, without the
18 consent of the person or persons entitled to privacy
19 therein;

20 (f) Covertly records or broadcasts an image of another
21 person's intimate area underneath clothing, by use of
22 any device, including an unmanned aerial vehicle, and

1 that image is taken while that person is in a public
2 place and without that person's consent;

3 (g) Intercepts, without the consent of the sender or
4 receiver, a message or photographic image by
5 telephone, telegraph, letter, electronic transmission,
6 or other means of communicating privately; but this
7 paragraph does not apply to:

8 (i) Overhearing of messages through a regularly
9 installed instrument on a telephone party line or
10 an extension; or

11 (ii) Interception by the telephone company, electronic
12 mail account provider, or telephone or electronic
13 mail subscriber incident to enforcement of
14 regulations limiting use of the facilities or
15 incident to other operation and use;

16 (h) Divulges, without the consent of the sender or the
17 receiver, the existence or contents of any message or
18 photographic image by telephone, telegraph, letter,
19 electronic transmission, or other means of
20 communicating privately, if the accused knows that the
21 message or photographic image was unlawfully
22 intercepted or if the accused learned of the message

