SENATE BILL 556

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO PRIVACY; ENACTING THE FREEDOM FROM UNWARRANTED SURVEILLANCE ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the "Freedom from Unwarranted Surveillance Act".

SECTION 2. DEFINITIONS.--As used in the Freedom from Unwarranted Surveillance Act:

A. "drone" means a powered aerial vehicle that:

(1) does not carry a human operator;

(2) uses aerodynamic forces to provide vehicle lift;

(3) can fly autonomously or be piloted remotely;

(4) can be expendable or recoverable; and
can carry a lethal or non-lethal payload;

B. "law enforcement agency" means any state, tribal, county or municipal law enforcement agency in the state; and

C. "unmanned aircraft" means aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

SECTION 3. PROHIBITION AGAINST SURVEILLANCE BY DRONE OR UNMANNED AIRCRAFT.--

A. A person or state agency shall not use a drone or unmanned aircraft to gather evidence or other information pertaining to criminal conduct or conduct in violation of a statute or regulation except to the extent authorized in a warrant.

B. A person or state agency shall not use a drone or unmanned aircraft to conduct surveillance of an individual or of property owned by an individual, farm or agricultural industry without the consent of that individual, property owner, farm or agricultural industry.

SECTION 4. USE OF DRONES OR UNMANNED AIRCRAFT UNDER EXIGENT CIRCUMSTANCES.--The Freedom from Unwarranted Surveillance Act does not prohibit the use of a drone by a law enforcement agency when exigent circumstances exist. For the purposes of this section, exigent circumstances exist if a law enforcement agency has reason to believe there is an immediate danger to the public safety or to the safety of persons or property. Such circumstances include, but are not limited to, a "hot pursuit" involving a suspect who is engaging in or has just completed a criminal act.
enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is necessary to prevent imminent danger to life.

SECTION 5. REMEDIES--PENALTIES.--

A. An aggrieved party may in a civil action obtain all appropriate relief to prevent or remedy a violation of the Freedom from Unwarranted Surveillance Act.

B. No information obtained or collected in violation of the Freedom from Unwarranted Surveillance Act may be admissible as evidence in a criminal proceeding in any court of law in the state or in an administrative hearing.

C. A person who violates Section 3 of the Freedom from Unwarranted Surveillance Act is guilty of a petty misdemeanor.

- 3 -