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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

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1 (5) can carry a lethal or non-lethal payload;

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

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

8

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

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

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

21 SECTION 4. USE OF DRONES OR UNMANNED AIRCRAFT UNDER  
22 EXIGENT CIRCUMSTANCES.--The Freedom from Unwarranted  
23 Surveillance Act does not prohibit the use of a drone by a law  
24 enforcement agency when exigent circumstances exist. For the  
25 purposes of this section, exigent circumstances exist if a law

.192827.1

1 enforcement agency possesses reasonable suspicion that, under  
2 particular circumstances, swift action is necessary to prevent  
3 imminent danger to life.

4 SECTION 5. REMEDIES--PENALTIES.--

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

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

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