

ASSEMBLY, No. 3833

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

SYNOPSIS

Prohibits the use of drones by law enforcement entities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/1/2020)

1 **AN ACT** concerning police surveillance and supplementing Title 2A
2 of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. For the purposes of this act,
8 “Unmanned aerial system” means an aerial vehicle that uses
9 aerodynamic forces to propel the vehicle and does not carry a human
10 operator, and which is capable of flying autonomously or being piloted
11 remotely and is capable of conducting surveillance as defined by this
12 section; and

13 “Surveillance” means the act of monitoring, observing,
14 photographing, listening to, or making a recording of a person or
15 group of persons or their movements, activities and
16 communications.

17 b. No law enforcement agency or officer shall utilize an
18 unmanned aerial system to conduct surveillance as defined under
19 subsection a. of this section or to gather any evidence or engage in
20 any other law enforcement activity.

21 c. No State officer or any officer or agency of local
22 government responsible for the implementation or enforcement of
23 land-use and building regulations established by or pursuant to the
24 “State Uniform Construction Code Act,” P.L.1975, c.217
25 (C.52:27D-119 et seq.) or the “Municipal Land Use Law,”
26 P.L.1975, c.291 (C.40:55D-1 et seq.) shall utilize an unmanned
27 aerial system to conduct surveillance or to investigate, prosecute or
28 cause to be prosecuted violators of the provisions of the “State
29 Uniform Construction Code Act” or the “Municipal Land Use
30 Law.”

31 d. The provisions of subsection b. of this section prohibiting a
32 law enforcement agency or officer from utilizing an unmanned
33 aerial system shall not apply if:

34 (1) the United States Secretary of the Department of Homeland
35 Security determines that credible intelligence indicates that the use
36 of a drone is necessary to counter a high risk of a terrorist attack by
37 a specific individual or organization; or

38 (2) the unmanned aerial system is utilized by the forest fire
39 service established under the Department of Environmental
40 Protection pursuant to R.S.13:9-1 et seq. to survey or monitor the
41 extent of a forest fire.

42 e. In addition to any other right of action or recovery otherwise
43 available under the laws of this State, a law enforcement agency or
44 officer who knowingly violates the provisions of this act shall be
45 liable to a plaintiff whose image was taken or who was the subject
46 of surveillance, or who was the subject of any other law
47 enforcement activity conducted in violation of this section. The
48 plaintiff may bring a civil action in the Superior Court, and the

1 court may award actual damages, punitive damages, reasonable
2 attorney's fees and other litigation costs reasonably incurred, and
3 any other preliminary and equitable relief as the court determines to
4 be appropriate.

5 f. Any evidence derived from the use of an unmanned aerial
6 system in violation of this section shall not be used as evidence in a
7 criminal prosecution.

8 g. No law enforcement agency or officer shall utilize an
9 unmanned aerial system in accordance with subsection d. of this
10 section at an altitude that is greater than 350 feet.

11
12 2. This bill shall take effect immediately.

13
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15 STATEMENT

16
17 This bill prohibits the use of unmanned aerial vehicles,
18 commonly referred to as drones, by law enforcement entities in this
19 State. In February, the President of the United States signed the
20 FAA Modernization and Reform Act of 2012. This act mandates
21 that the Federal Aviation Administration administer a program that
22 integrates the use of drones into the national airspace system.

23 Under the provisions of the bill, a law enforcement agency or
24 officer is prohibited from utilizing a drone unless the United States
25 Secretary of the Department of Homeland Security determines that
26 credible intelligence indicates that the use of a drone is necessary to
27 counter a high risk of a terrorist attack by a specific individual or
28 organization. In addition, the bill prohibits any State officer or any
29 officer or agency of local government responsible from utilizing a
30 drone to enforce the land-use and building regulations established
31 under the "State Uniform Construction Code Act" or the "Municipal
32 Land Use Law." The bill waives the prohibition on using drones for
33 the forest fire service established under the Department of
34 Environmental Protection when the service or any members of the
35 service utilize a drone to survey or monitor the extent of a forest
36 fire. Finally, that a law enforcement entity or forest fire service that
37 utilizes a drone is prohibited from operating the drone at an altitude
38 of greater than 350 feet.

39 Any person whose image was taken, who was the subject of
40 surveillance, or any other law enforcement activity in violation of
41 the bill's provisions may bring a civil action against the law
42 enforcement agency or officer in the Superior Court. The court may
43 award actual damages, punitive damages, reasonable attorney's fees
44 and other litigation costs reasonably incurred, and any other
45 preliminary and equitable relief as the court determines to be
46 appropriate.

47 The bill provides that any evidence illegally derived from the use
48 of a drone is not to be used as evidence in a criminal prosecution.