

By the Committee on Judiciary; and Senator Hukill

590-02824-15

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1 A bill to be entitled
2 An act relating to surveillance by a drone; amending
3 s. 934.50, F.S.; defining terms; prohibiting a person,
4 a state agency, or a political subdivision from using
5 a drone to capture an image of privately owned real
6 property or of the owner, tenant, occupant, invitee,
7 or licensee of such property with the intent to
8 conduct surveillance without his or her written
9 consent if a reasonable expectation of privacy exists;
10 specifying when a reasonable expectation of privacy
11 may be presumed; authorizing the use of a drone by a
12 person or entity engaged in a business or profession
13 licensed by the state in certain circumstances;
14 authorizing the use of a drone by an employee or
15 contractor of a property appraiser for the purpose of
16 assessing property for ad valorem taxation; providing
17 that an owner, tenant, occupant, invitee, or licensee
18 may initiate a civil action for compensatory damages
19 and may seek injunctive relief against a person, a
20 state agency, or a political subdivision that violates
21 the act; providing for construction; providing for the
22 recovery of attorney fees and punitive damages;
23 specifying that remedies provided by the act are
24 cumulative to other remedies; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 934.50, Florida Statutes, is amended to

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30 read:

31 934.50 Searches and seizure using a drone.—

32 (1) SHORT TITLE.—This act may be cited as the “Freedom from
33 Unwarranted Surveillance Act.”

34 (2) DEFINITIONS.—As used in this act, the term:

35 (a) “Drone” means a powered, aerial vehicle that:

- 36 1. Does not carry a human operator;
37 2. Uses aerodynamic forces to provide vehicle lift;
38 3. Can fly autonomously or be piloted remotely;
39 4. Can be expendable or recoverable; and
40 5. Can carry a lethal or nonlethal payload.

41 (b) “Image” means a record of thermal, infrared,
42 ultraviolet, visible light, or other electromagnetic waves;
43 sound waves; odors; or other physical phenomena which captures
44 conditions existing on or about real property or an individual
45 located on that property.

46 (c) “Imaging device” means a mechanical, digital, or
47 electronic viewing device; still camera; camcorder; motion
48 picture camera; or any other instrument, equipment, or format
49 capable of recording, storing, or transmitting an image.

50 (d)~~(b)~~ “Law enforcement agency” means a lawfully
51 established state or local public agency that is responsible for
52 the prevention and detection of crime, local government code
53 enforcement, and the enforcement of penal, traffic, regulatory,
54 game, or controlled substance laws.

55 (3) PROHIBITED USE OF DRONES.—

56 (a) A law enforcement agency may not use a drone to gather
57 evidence or other information.

58 (b) A person, a state agency, or a political subdivision as

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59 defined in s. 11.45 may not use a drone equipped with an imaging
60 device to record an image of privately owned or occupied real
61 property or of the owner, tenant, occupant, invitee, or licensee
62 of such property with the intent to conduct surveillance on the
63 individual or property captured in the image in violation of
64 such person's reasonable expectation of privacy without his or
65 her written consent. For purposes of this section, a person is
66 presumed to have a reasonable expectation of privacy on his or
67 her privately owned or occupied real property if he or she is
68 not observable by persons located at ground level in a place
69 where they have a legal right to be, regardless of whether he or
70 she is observable from the air with the use of a drone. This
71 paragraph is not intended to limit or restrict the application
72 of federal law to the use of drones for surveillance purposes.

73 (4) EXCEPTIONS.—This act does not prohibit the use of a
74 drone:

75 (a) To counter a high risk of a terrorist attack by a
76 specific individual or organization if the United States
77 Secretary of Homeland Security determines that credible
78 intelligence indicates that there is such a risk.

79 (b) If the law enforcement agency first obtains a search
80 warrant signed by a judge authorizing the use of a drone.

81 (c) If the law enforcement agency possesses reasonable
82 suspicion that, under particular circumstances, swift action is
83 needed to prevent imminent danger to life or serious damage to
84 property, to forestall the imminent escape of a suspect or the
85 destruction of evidence, or to achieve purposes including, but
86 not limited to, facilitating the search for a missing person.

87 (d) By a person or entity engaged in a business or

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88 profession licensed by the state, or by an agent, employee, or
89 contractor thereof, if the drone is used only to perform
90 reasonable tasks within the scope of practice or activities
91 permitted under such person's or entity's license. However, this
92 exception does not apply to a profession in which the licensee's
93 authorized scope of practice includes obtaining information
94 about the identity, habits, conduct, movements, whereabouts,
95 affiliations, associations, transactions, reputation, or
96 character of any society, person, or group of persons.

97 (e) By an employee or contractor of a property appraiser
98 who uses a drone solely for the purpose of assessing property
99 for ad valorem taxation.

100 (5) REMEDIES FOR VIOLATION.—

101 (a) An aggrieved party may initiate a civil action against
102 a law enforcement agency to obtain all appropriate relief in
103 order to prevent or remedy a violation of this act.

104 (b) The owner, tenant, occupant, invitee, or licensee of
105 privately owned or occupied real property may initiate a civil
106 action for compensatory damages for violations of this section
107 and may seek injunctive relief to prevent future violations of
108 this section against a person, state agency, or political
109 subdivision that violates paragraph (3) (b). In such action, the
110 prevailing party is entitled to recover reasonable attorney fees
111 from the nonprevailing party based on the actual and reasonable
112 time expended by his or her attorney billed at an appropriate
113 hourly rate and, in cases in which the payment of such a fee is
114 contingent on the outcome, without a multiplier, unless the
115 action is tried to verdict, in which case a multiplier of up to
116 twice the actual value of the time expended may be awarded in

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117 the discretion of the trial court.

118 (c) Punitive damages for a violation of paragraph (3)(b)
119 may be sought against a person subject to other requirements and
120 limitations of law, including, but not limited to, part II of
121 chapter 768 and case law.

122 (d) The remedies provided for a violation of paragraph
123 (3)(b) are cumulative to other existing remedies.

124 (6) PROHIBITION ON USE OF EVIDENCE.—Evidence obtained or
125 collected in violation of this act is not admissible as evidence
126 in a criminal prosecution in any court of law in this state.

127 Section 2. This act shall take effect July 1, 2015.