

## HOUSE BILL No. 2683

By Committee on Veterans, Military and Homeland Security

2-13

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1 AN ACT relating to unmanned aerial vehicles; enacting the unmanned  
2 aerial vehicle regulation act.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Sections 1 through 8, and amendments thereto, may be  
6 cited as the unmanned aerial vehicle act.

7 Sec. 2. As used in this act:

8 (a) "Government entity" means the state or municipality as these  
9 terms are defined in K.S.A. 75-6102, and amendments thereto.

10 (b) "Law enforcement agency" means any agency of a governmental  
11 entity which is vested by law with the duty to maintain public order and to  
12 enforce criminal laws.

13 (c) "Unmanned aerial vehicle" means a drone or any aerial vehicle  
14 that does not carry a human operator.

15 Sec. 3. (a) No unmanned aerial vehicle shall be operated in this state  
16 except as provided by this act.

17 (b) No governmental entity shall operate an unmanned aerial vehicle  
18 that is capable of firing a bullet or other projectile, directing a laser or  
19 otherwise being used as a weapon.

20 Sec. 4. (a) Any use of unmanned aerial vehicles shall fully comply  
21 with all federal aviation administration requirements and guidelines, and  
22 acquisition of unmanned aerial vehicles shall be approved by the  
23 legislative body overseeing the agent of the governmental entity seeking  
24 such acquisition.

25 (b) Except as provided in subsection (c), it is unlawful for an agent of  
26 the governmental entity to operate an unmanned aerial vehicle or to  
27 disclose or receive information acquired through the operation of an  
28 unmanned aerial vehicle.

29 (c) It shall be lawful under this act: (1) To disclose or receive  
30 information about any person acquired through the operation of an  
31 unmanned aerial vehicle if the person has given written consent to such  
32 disclosure.

33 (2) For an agent of the governmental entity to operate an unmanned  
34 aerial vehicle and for information from such operation to be disclosed or  
35 received if the unmanned aerial vehicle is used in circumstances in which  
36 it is reasonable to believe that there is an imminent threat to the life or

1 safety of a person, to assist the person subject to the following limitations:

2 (A) The request shall document the factual basis for the emergency;  
3 and

4 (B) not later than 48 hours after the agent of the governmental entity  
5 begins operation of an unmanned aerial vehicle, a supervisory official shall  
6 file a sworn statement with the appropriate district court setting forth the  
7 grounds for the emergency use.

8 (d) (1) An unmanned aerial vehicle may be operated and information  
9 from such operation disclosed in order to collect information from a non-  
10 public area only pursuant to a warrant issued under K.S.A. 22-2502 et seq.,  
11 and amendments thereto.

12 (2) An unmanned aerial vehicle may be operated and information  
13 from such operation disclosed in order to collect information from a public  
14 area pursuant to a warrant authorized under this section or pursuant to an  
15 order issued by any court that is a court of competent jurisdiction if the  
16 agent of the governmental entity offers specific and articulable facts  
17 demonstrating reasonable suspicion of criminal activity, that the operation  
18 of the public unmanned aerial vehicle will uncover such activity, and that  
19 alternative methods of data collection are either cost-prohibitive or present  
20 a significant risk to any person's bodily safety. Such an order shall not be  
21 issued for a period greater than 48 hours. Extensions of an order may be  
22 granted but shall be no longer than the authorizing judge deems necessary  
23 to achieve the purposes for which it was granted and in no event for longer  
24 than 30 days.

25 (3) It shall not be unlawful for an agent of the governmental entity to  
26 operate an unmanned aerial vehicle and for information from such  
27 operation to be disclosed if no part of any information and no evidence  
28 derived from such operation may be received in evidence in any trial,  
29 hearing or other proceeding in or before any court, grand jury, department,  
30 officer, agency, regulatory body, legislative committee or other authority of  
31 the state of Kansas or a municipality thereof or for any intelligence  
32 purpose.

33 (e) When unmanned aerial vehicles are used pursuant to this section,  
34 they shall be operated in a manner to collect data only on the target and to  
35 avoid data collection on individuals, homes or areas other than the target.  
36 Neither facial recognition nor other biometric matching technology may be  
37 used on non-target data collected by an unmanned aerial vehicle.

38 Sec. 5. (a) No data collected on an individual, home or area other than  
39 the target that justified deployment may be used, copied or disclosed for  
40 any purpose. Such data must be deleted as soon as possible and in no event  
41 later than 24 hours after collection.

42 (b) Whenever an agent of a governmental entity uses an unmanned  
43 aerial vehicle, no part of the information acquired and no evidence derived

1 therefrom may be received in evidence in any trial, hearing or other  
2 proceeding in or before any court, grand jury, department, officer, agency,  
3 regulatory body, legislative committee or other authority of the state of  
4 Kansas or a municipality thereof if the disclosure of that information  
5 would be in violation of this act.

6 Sec. 6. (a) Notwithstanding any other provision of this act, an agent  
7 of a governmental entity may operate an unmanned aerial vehicle and  
8 disclose information from such operation if:

9 (1) Such agent of a governmental entity reasonably determines that an  
10 emergency situation exists that:

11 (A) Involves:

12 (i) Immediate danger of death or serious physical injury to any  
13 person;

14 (ii) conspiratorial activities threatening the national security interest;  
15 or

16 (iii) conspiratorial activities characteristic of organized crime; and

17 (B) requires operation of an unmanned aerial vehicle before a search  
18 warrant or order authorizing such interception can, with due diligence, be  
19 obtained;

20 (2) there are grounds upon which such a search warrant or order  
21 could be entered to authorize such operation; and

22 (3) an application for a search warrant or order approving such  
23 operation is made within 48 hours after the operation begins to occur.

24 (b) (1) In the absence of a search warrant or order, an operation of an  
25 unmanned aerial vehicle carried out under subsection (a) shall immediately  
26 terminate when the information sought is obtained or when the application  
27 for the search warrant or order is denied, whichever is earlier.

28 (2) In the event such application for approval is denied, the  
29 information obtained from the operation of an unmanned aerial vehicle  
30 shall be treated as having been obtained in violation of this act and an  
31 inventory shall be served on the person named in the application.

32 Sec. 7. Any person whose person or property has been the subject of  
33 information gathered by a drone in violation of this act shall have a civil  
34 cause of action against the person or persons responsible for such  
35 violation. The person aggrieved may:

36 (a) Enjoin a violation or imminent violation of this act;

37 (b) recover a civil penalty of:

38 (1) \$5,000 for all images captured in a single episode in violation of  
39 this act; or

40 (2) \$10,000 for disclosure, display, distribution or other use of any  
41 images captured in a single episode in violation of this act;

42 (c) recover actual damages if the person who captured the image in  
43 violation of this act discloses, displays or distributes the image with

1 malice.

2 In addition, a court may award costs and reasonable attorney fees to the  
3 prevailing party.

4 Sec. 8. (a) On or before June 30, 2015, and each June 30 thereafter,  
5 any agent of a governmental entity that uses unmanned aerial vehicles  
6 shall report to the attorney general and make public on its website:

7 (1) The number of times an unmanned aerial vehicle was used,  
8 organized by the types of incidents and the types of justification for  
9 deployment;

10 (2) the number of crime investigations aided by the use of unmanned  
11 aerial vehicles. A description of how the unmanned aerial vehicle was  
12 helpful to each investigation should be included;

13 (3) the number of uses of unmanned aerial vehicles for reasons other  
14 than criminal investigations. A description of how the unmanned aerial  
15 vehicle was helpful in each instance should be included;

16 (4) the frequency and type of data collected on individuals or areas  
17 other than targets; and

18 (5) the total cost of their unmanned aerial vehicle program.

19 (b) The attorney general shall compile information reported in  
20 subsection (a) and prepare a report to be submitted to the legislature in  
21 January of each year.

22 Sec. 9. This act shall take effect and be in force from and after its  
23 publication in the statute book.