

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 46

97TH GENERAL ASSEMBLY

0371H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 305, RSMo, by adding thereto four new sections relating to aerial surveillance, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 305, RSMo, is amended by adding thereto four new sections, to be known as sections 305.635, 305.637, 305.639, and 305.641, to read as follows:

**305.635. 1. Sections 305.635 to 305.641 shall be known and may be cited as the “Preserving Freedom from Unwarranted Surveillance Act”.**

**2. As used in sections 305.635 to 305.641, the following terms shall mean:**

**(1) “Drone”, any powered, aerial vehicle that:**

**(a) Does not carry a human operator;**

**(b) Uses aerodynamic forces to provide vehicle lift;**

**(c) Can fly autonomously or be piloted remotely;**

**(d) Can be expendable or recoverable; and**

**(e) Can carry a lethal or non-lethal payload.**

**(2) “Unmanned aircraft”, an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.**

**(3) “Manned Aircraft”, an aircraft that is operated by a human on board the aircraft.**

**(4) “Model aircraft”, an unmanned aircraft that is:**

**(a) Capable of sustained flight in the atmosphere;**

**(b) Flown within visual line of sight of the person remotely operating the aircraft;**

**and**

**(c) Flown for hobby or recreational purposes.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 (5) “Law enforcement agency”, any state, county, or municipal law enforcement  
20 agency in the state. The term law enforcement agency shall not include the Missouri  
21 department of corrections, or any state, county, or municipal fire department.

2 305.637. 1. No person, entity, or state agency shall use a manned aircraft, drone,  
2 or unmanned aircraft to gather evidence or other information pertaining to criminal  
3 conduct or conduct in violation of a statute or regulation except to the extent authorized  
4 in a warrant.

5 2. No person, entity, or state agency shall use a manned aircraft, drone, or  
6 unmanned aircraft to conduct surveillance or observation under the doctrine of open fields  
7 of any individual, property owned by an individual, farm, or agricultural industry without  
8 the consent of that individual, property owner, farm or agricultural industry.

9 3. No person, group of persons, entity, or organization, including, but not limited  
10 to, journalists, reporters, or news organizations, shall use a drone or other unmanned  
11 aircraft to conduct surveillance of any individual or property owned by an individual or  
12 business without the consent of that individual or property owner.

2 305.639. 1. This act does not prohibit the use of a manned aircraft, drone, or  
2 unmanned aircraft by:

3 (1) A law enforcement agency when exigent circumstances exist. For the purposes  
4 of this section, exigent circumstances exist if a law enforcement agency possesses  
5 reasonable suspicion that, under particular circumstances, swift action to prevent  
6 imminent danger to life is necessary; or

7 (2) A Missouri-based higher education institution conducting educational, research,  
8 or training programs within the scope of its mission, grant requirements, curriculum or  
9 collaboration with the United States Department of Defense.

10 2. This act does not prohibit the use of a model aircraft.

2 305.641. 1. Any aggrieved party may in a civil action obtain all appropriate relief  
2 to prevent or remedy a violation of this act.

3 2. No information obtained or collected in violation of this act may be admissible  
4 as evidence in a criminal proceeding in any court of law in the state or in an administrative  
5 hearing.

6 3. Sovereign immunity for the state of Missouri is waived for any civil action  
7 resulting from a violation of sections 305.635 to 305.641.

2 Section B. Because of the need to protect Missourians from invasions of privacy in the  
2 state, section A of this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and section A of this act shall be in full force and effect July 1,  
5 2013, or upon its passage and approval, whichever later occurs.