

FIRST REGULAR SESSION

HOUSE BILL NO. 401

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAFFNER.

1256H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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 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 nonlethal payload;**
 - (2) "Manned aircraft", an aircraft that is operated by a human on board the aircraft;**
 - (3) "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.

17 (4) "State law enforcement agency", any state law enforcement agency in the
18 state. The term "state law enforcement agency" shall not include the Missouri
19 department of corrections or any state, county, or municipal fire department;

20 (5) "Unmanned aircraft", an aircraft that is operated without the possibility of
21 direct human intervention from within or on board the aircraft.

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

5 2. A law enforcement agency, without obtaining a warrant, may use a drone or
6 unmanned aircraft in emergency situations if there is an imminent threat to life or of
7 great bodily harm including, but not limited to, fires, hostage crises, hot pursuit
8 situations if reasonably necessary to prevent harm to law enforcement officers or others,
9 and search and rescue operations on land or water. A law enforcement agency, without
10 obtaining a warrant, may use a drone or unmanned aircraft to assess the necessity of
11 first responders in situations relating to traffic accidents or fires or to inspect state
12 parks and conservation areas for illegal vegetation. Nothing in sections 305.635 to
13 305.641 shall be construed to prohibit any law enforcement officer from gathering
14 evidence under the plain view doctrine.

15 3. No person, entity, or state agency shall use a drone or other unmanned
16 aircraft to conduct surveillance or observation of any individual, property owned by an
17 individual, farm, facility engaged in the creation of fuel from agricultural products, or
18 agricultural industry without the consent of that individual, property owner, farm,
19 facility, or agricultural industry except to the extent authorized in a warrant.

305.639. 1. Sections 305.635 to 305.641 do not prohibit the use of a manned
2 aircraft, drone, or unmanned aircraft by:

3 (1) A state law enforcement agency or any county or municipal law enforcement
4 agency in the state to the extent authorized in a warrant;

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

8 (3) A manufacturer or seller:

9 (a) Engaged in the research, development, or testing of a manned aircraft, drone,
10 or unmanned aircraft; and

11 (b) Operating a manned aircraft, drone, or unmanned aircraft:

12 **a. In accordance with such manufacturer's or seller's standard flight operating**
13 **procedures, including flight procedures for research, development, operational, and**
14 **developmental tests and evaluation, training, and market surveys;**

15 **b. On a flight to or from an airport, airfield, remote site, or runway, including an**
16 **airfield or runway used for research, testing, or development purposes; or**

17 **c. In the process of taking off or landing;**

18 **(4) Any real estate agent or broker licensed in this state or any person acting on**
19 **behalf of such real estate agent or broker in connection with the marketing, sale, or**
20 **financing of real property;**

21 **(5) Any branch of the United States Armed Forces or the National Guard; and**

22 **(6) Any professional engaged in surveying, mapping, or engineering.**

23 **2. Sections 305.635 to 305.641 do not prohibit the use of a model aircraft.**

305.641. 1. Any aggrieved party may in a civil action obtain all appropriate
2 **relief to prevent or remedy a violation of sections 305.635 to 305.641.**

3 **2. No information obtained or collected in violation of sections 305.635 to**
4 **305.641 shall be admissible as evidence in a criminal proceeding in any court of law in**
5 **the state or in an administrative 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.**

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