

1 **REGULATION OF DRONES**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: Marc K. Roberts

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7 **LONG TITLE**

8 **General Description:**

9 This bill establishes provisions for the appropriate use of unmanned aerial vehicles by  
10 government entities.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ defines terms;  
14 ▶ enacts the "Government Use of Unmanned Aerial Vehicles Act";  
15 ▶ prohibits an agent of the state from operating an unmanned aerial vehicle except in  
16 situations where:

17 • the target of the operation provides written consent;  
18 • an emergency threatens the life or safety of an individual;  
19 • an emergency threatens national security interests;  
20 • an emergency is created by activities characteristic of organized crime;  
21 • a warrant is issued for the operation of the unmanned aerial vehicle; or  
22 • the unmanned aerial vehicle is used for purposes other than a criminal  
23 investigation or intelligence gathering and the information gathered is not used  
24 in an adjudicative proceeding by any state authority;

25 ▶ establishes requirements for an agent of the state that operates an unmanned aerial  
26 vehicle in emergency situations;

27 ▶ establishes other requirements and guidelines for an agent of the state that operates



- 28 an unmanned aerial vehicle;
- 29       ▶ establishes requirements for the retention and use of data collected by an unmanned
- 30 aerial vehicle;
- 31       ▶ requires that notification be issued to the target of an unmanned aerial vehicle
- 32 operation and allows an agent of the state to delay the notification in certain
- 33 circumstances;
- 34       ▶ establishes a disciplinary process for an agent of the state that violates the
- 35 provisions of this bill; and
- 36       ▶ establishes reporting requirements for:
  - 37       • an agent of the state that operates an unmanned aerial vehicle;
  - 38       • a court that issues a warrant for the operation of an unmanned aerial vehicle;
  - 39       • the attorney general's office; and
  - 40       • the Utah Department of Public Safety.

41 **Money Appropriated in this Bill:**

42       None

43 **Other Special Clauses:**

44       None

45 **Utah Code Sections Affected:**

46 ENACTS:

- 47       **63G-18-101**, Utah Code Annotated 1953
- 48       **63G-18-102**, Utah Code Annotated 1953
- 49       **63G-18-103**, Utah Code Annotated 1953
- 50       **63G-18-104**, Utah Code Annotated 1953
- 51       **63G-18-105**, Utah Code Annotated 1953
- 52       **63G-18-106**, Utah Code Annotated 1953
- 53       **63G-18-107**, Utah Code Annotated 1953



55 *Be it enacted by the Legislature of the state of Utah:*

56       Section 1. Section **63G-18-101** is enacted to read:

57       **CHAPTER 18. GOVERNMENT USE OF UNMANNED AERIAL VEHICLES ACT**

58       **63G-18-101.** Title.

59 This chapter is known as the "Government Use of Unmanned Aerial Vehicles Act."

60 Section 2. Section **63G-18-102** is enacted to read:

61 **63G-18-102. Definitions.**

62 As used in this chapter:

63 (1) "Agent of the state" means:

64 (a) an agency, department, division, or other entity within the state government;

65 (b) a person employed by or acting in an official capacity on behalf of the state;

66 (c) a political subdivision of the state; or

67 (d) a person employed by or acting in an official capacity on behalf of a political  
68 subdivision of the state.

69 (2) "Supervisory official" means a person who has direct authority to authorize the  
70 deployment or purchase of an unmanned aerial vehicle for an agent of the state.

71 (3) "Target" means a person upon whom, or structure or area upon which, an agent of  
72 the state:

73 (a) has intentionally collected or attempted to collect information through the operation  
74 of an unmanned aerial vehicle; or

75 (b) plans to collect or attempt to collect information through the operation of an  
76 unmanned aerial vehicle.

77 (4) (a) "Unmanned aerial vehicle" means an aircraft that:

78 (i) is capable of sustaining flight; and

79 (ii) operates with no possible direct human intervention from on or within the aircraft.

80 (b) "Unmanned aerial vehicle" does not include an unmanned aircraft that is flown:

81 (i) within visual line of sight of the individual operating the aircraft; and

82 (ii) strictly for hobby or recreational purposes.

83 Section 3. Section **63G-18-103** is enacted to read:

84 **63G-18-103. Operation of unmanned aerial vehicles.**

85 (1) Except as provided in this section, an agent of the state may not operate an  
86 unmanned aerial vehicle or receive or disclose information acquired through the operation of  
87 an unmanned aerial vehicle.

88 (2) An agent of the state may operate an unmanned aerial vehicle or receive or disclose  
89 information acquired through the operation of an unmanned aerial vehicle if:

90 (a) the target, or owner of the target, of the unmanned aerial vehicle gives written  
91 consent to the collection or disclosure;

92 (b) (i) the unmanned aerial vehicle is used to assist a person whose life or safety is  
93 reasonably believed to be threatened;

94 (ii) the operation of the unmanned aerial vehicle is approved by a supervisory official  
95 who documents the factual basis for the emergency; and

96 (iii) no later than 48 hours after the agent of the state begins operation of the unmanned  
97 aerial vehicle, the supervisory official files a sworn statement setting forth the grounds for the  
98 operation of the unmanned aerial vehicle;

99 (c) (i) the agent of the state reasonably determines that an emergency situation exists  
100 that:

101 (A) threatens national security interests; or

102 (B) is characteristic of organized crime; and

103 (ii) (A) the emergency situation requires the operation of the unmanned aerial vehicle  
104 before a warrant or order can be obtained;

105 (B) there are grounds upon which a warrant or order could be obtained to authorize the  
106 operation;

107 (C) an application for a warrant or order is filed within 48 hours after the operation  
108 commences; and

109 (D) the operation terminates in accordance with Subsection (3);

110 (d) the agent of the state operates the unmanned aerial vehicle in order to collect  
111 information from a nonpublic area, provided that the agent of the state obtains a lawfully issued  
112 warrant; or

113 (e) (i) the unmanned aerial vehicle is used for a purpose other than law enforcement or  
114 intelligence gathering; and

115 (ii) no information or evidence derived from the operation of the unmanned aerial  
116 vehicle is intended for use in a trial, hearing, or other adjudicative proceeding, including before  
117 any court, grand jury, department, officer, agency, regulatory body, legislative committee, or  
118 other authority of the state or political subdivision of the state.

119 (3) (a) The operation of an unmanned aerial vehicle under Subsection (2)(c) shall  
120 terminate immediately at the earliest of:

121 (i) the time the information sought by the operation is obtained; or

122 (ii) the time the application for the warrant or order sought under Subsection

123 (2)(c)(ii)(C) is denied.

124 (b) If an application for a warrant or order sought under Subsection (2)(c)(ii)(C) is

125 denied, the supervisory official shall ensure that any information obtained, copied, or

126 reproduced from the operation of the unmanned aerial vehicle under Subsection (2) is

127 destroyed in an unrecoverable manner no later than 24 hours after the warrant or order is

128 denied.

129 (4) When an agent of the state operates an unmanned aerial vehicle under Subsection

130 (2), the agent of the state shall operate the unmanned aerial vehicle in a manner that:

131 (a) ensures that data collected pertains only to the target; and

132 (b) avoids collecting data on a person, structure, or area other than the target.

133 (5) Facial recognition or other biometric matching technology may not be used by an

134 unmanned aerial vehicle, or used to process data collected by an unmanned aerial vehicle, to

135 identify an individual other than a target.

136 (6) An agent of the state operating an unmanned aerial vehicle shall comply with all

137 Federal Aviation Administration requirements and guidelines that apply to the operation of an

138 unmanned aerial vehicle.

139 (7) An agent of the state wishing to acquire an unmanned aerial vehicle shall obtain

140 approval from a supervisory official.

141 (8) An unmanned aerial vehicle may not be equipped with weapons.

142 Section 4. Section **63G-18-104** is enacted to read:

143 **63G-18-104. Data retention.**

144 (1) Except as provided in Subsection (2):

145 (a) an agent of the state may not use, copy, or disclose, for any purpose, data collected

146 by an unmanned aerial vehicle on a person, structure, or area that is not a target; and

147 (b) the supervisory official shall ensure that data described in Subsection (1)(a) is

148 destroyed in an unrecoverable manner no later than 24 hours after the data is collected.

149 (2) An agent of the state is not required to comply with Subsection (1) if deleting the

150 data would also require the deletion of data that:

151 (a) relates to the target of the operation; and

152 (b) is requisite for the success of the operation.

153 (3) Information obtained by an agent of the state through an unmanned aerial vehicle  
154 may not be received as evidence in any trial, hearing, or other proceeding in or before any  
155 court, grand jury, department, officer, agency, regulatory body, legislative committee, or other  
156 authority of the state or a political subdivision of the state if:

157 (a) the information was obtained in violation of this chapter; or

158 (b) disclosing the information would be in violation of this chapter.

159 (4) An agent of the state that willfully discloses or uses information obtained through  
160 an unmanned aerial vehicle beyond the extent permitted by this chapter is in violation of this  
161 chapter.

162 Section 5. Section **63G-18-105** is enacted to read:

163 **63G-18-105. Notification required -- Delayed notification.**

164 (1) Except as provided in Subsection (2), an agent of the state that executes a warrant  
165 or order to operate an unmanned aerial vehicle shall, within 30 days after the day on which the  
166 operation of the unmanned aerial vehicle commences, issue a notification to the target, or  
167 owner of the target, specified in the warrant or order that states:

168 (a) that a warrant or order was applied for and granted;

169 (b) the kind of warrant or order issued;

170 (c) the period of time the warrant or order authorized the operation of an unmanned  
171 aerial vehicle;

172 (d) the offense specified in the application for the warrant or order;

173 (e) the identity of the agent of the state or supervisory official that filed the application;

174 and

175 (f) the identity of the judge who issued the warrant or order.

176 (2) An agent of the state seeking a warrant or order for the operation of an unmanned  
177 aerial vehicle may submit a request, and the court may grant permission, to delay the  
178 notification required by Subsection (1) for a period not to exceed 90 days, if the court  
179 determines that there is reason to believe that the notification may:

180 (a) endanger the life or physical safety of an individual;

181 (b) cause a person to flee from prosecution;

182 (c) lead to the destruction of or tampering with evidence;

183 (d) intimidate a potential witness; or

184 (e) otherwise seriously jeopardize an investigation or unduly delay a trial.

185 (3) When a delay of notification is granted under Subsection (1) and upon application  
186 by the agent of the state, the court may grant additional extensions of up to 90 days each.

187 (4) Upon expiration of the period of delayed notification granted under Subsection (2)  
188 or (3), the agent of the state operating the unmanned aerial vehicle or a supervisory official  
189 shall serve or deliver by first-class mail a copy of the warrant or order upon the target together  
190 with notice that:

191 (a) states with reasonable specificity the nature of the law enforcement inquiry; and

192 (b) contains:

193 (i) the information described in Subsections (1)(a) through (f);

194 (ii) a statement that notification of the search was delayed;

195 (iii) the name of the court that authorized the delay of notification; and

196 (iv) a reference to the provision of this chapter that allowed the delay of notification.

197 Section 6. Section **63G-18-106** is enacted to read:

198 **63G-18-106. Administrative discipline.**

199 (1) When a supervisory official or other administrator becomes aware that an agent of  
200 the state over which the supervisory official or the administrator has jurisdiction may have  
201 violated any part of this chapter, the supervisory official or administrator shall initiate an  
202 investigative process to determine:

203 (a) whether the agent of the state violated this chapter;

204 (b) if the agent of the state violated this chapter, whether the violation was intentional;

205 (c) if the violation was intentional, whether disciplinary action against the agent of the  
206 state is warranted; and

207 (d) if disciplinary action against the agent of the state is warranted, what disciplinary  
208 action is appropriate.

209 (2) A supervisory official with jurisdiction over an agent of the state who is found to  
210 warrant disciplinary action under Subsection (1) shall discipline the agent of the state in  
211 accordance with the recommendation of the investigative process described in Subsection  
212 (1)(d).

213 Section 7. Section **63G-18-107** is enacted to read:

214 **63G-18-107. Reporting.**

215 (1) (a) Except as provided by Subsection (1)(b), before March 31 of each year, an agent  
216 of the state that operated an unmanned aerial vehicle in the previous calendar year shall submit  
217 to the Utah Department of Public Safety, and make public on the website of the government  
218 entity for which the agent operated the unmanned aerial vehicle, a written report containing:

219 (i) the number of times the agent of the state operated an unmanned aerial vehicle in  
220 the previous calendar year;

221 (ii) the number of criminal investigations aided by the use of an unmanned aerial  
222 vehicle operated by the agent of the state in the previous calendar year;

223 (iii) a description of how the unmanned aerial vehicle was helpful to each investigation  
224 described under Subsection (1)(a)(ii);

225 (iv) the frequency and type of data collected by an unmanned aerial vehicle operated by  
226 the agent of the state on any persons, structures, or areas other than targets in the previous  
227 calendar year; and

228 (v) the total cost of the unmanned aerial vehicle program operated by the agent of the  
229 state in the previous calendar year.

230 (b) (i) An agent of the state submitting a report under Subsection (1)(a) may exclude  
231 from the report information pertaining to an ongoing investigation under Subsection  
232 63G-18-103(2)(c) or (d).

233 (ii) An agent of the state that excludes information under Subsection (1)(b)(i) from the  
234 report shall report the excluded information to the Utah Department of Public Safety on the  
235 annual report in the year following the year in which information was excluded.

236 (2) Before March 31 of each year, a judge who issued, extended, or denied approval for  
237 an order or warrant under Subsection 63G-18-103(2)(c) or (d) that expired during the previous  
238 calendar year shall, for each warrant, order, or extension applied for or granted, submit a report  
239 to the Utah Department of Public Safety stating:

240 (a) that the warrant, order, or extension was applied for;

241 (b) the kind of warrant, order, or extension applied for;

242 (c) whether the warrant, order, or extension was granted as applied for, modified, or  
243 denied;

244 (d) the period of time the warrant, order, or extension authorized the operation of an



245 unmanned aerial vehicle;

246 (e) the offense specified in the application for the warrant, order, or extension;

247 (f) the identity of the agent of the state who filed the application; and

248 (g) the identity of the supervisory official who authorized the application.

249 (3) Before March 31 of each year, the attorney general or the attorney general's  
250 designee shall, for each warrant, order, or extension applied for by the attorney general's office  
251 in the previous calendar year under Subsection 63G-18-103(2)(c) or (d), submit a report to the  
252 Utah Department of Public Safety containing:

253 (a) the information described in Subsections (2)(a) through (g), with respect to the  
254 applications submitted by the attorney general's office;

255 (b) a general description of the information gathered under the warrant, order, or  
256 extension, including:

257 (i) the nature and frequency of the observed incriminating conduct;

258 (ii) the approximate number of targets upon which information was gathered; and

259 (iii) the approximate nature, amount, and cost of the resources used in the data  
260 collection;

261 (c) the number of arrests resulting from information gathered by an unmanned aerial  
262 vehicle;

263 (d) the offenses for which the arrests were made;

264 (e) the number of trials resulting from the information gathered;

265 (f) the number of motions to suppress filed in regards to the information gathered;

266 (g) the number of motions to suppress that were granted or denied;

267 (h) the number of convictions resulting from the information gathered;

268 (i) the offenses for which the convictions were obtained; and

269 (j) a general assessment of the importance of the information gathered.

270 (4) Before May 31 of each year the Utah Department of Public Safety shall, for the  
271 previous calendar year:

272 (a) transmit to the Government Operations Interim Committee and post on the  
273 department's website a report containing:

274 (i) a summary of the information reported to the department under Subsections (1)  
275 through (3);

276            (ii) the number of issued warrants, orders, or extensions authorizing the operation of an  
277 unmanned aerial vehicle; and

278            (iii) the number of denied warrants, orders, and extensions for the operation of an  
279 unmanned aerial vehicle; and

280            (b) post on the department's website any report the department received under  
281 Subsections (1) through (3).

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**Legislative Review Note**  
**as of 1-28-14 10:37 AM**

**Office of Legislative Research and General Counsel**