

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 25

H.P. 24

House of Representatives, January 13, 2015

**An Act To Protect the Privacy of Citizens from Domestic Unmanned
Aerial Vehicle Uses**

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative RUSSELL of Portland.
Cosponsored by Senator BRAKEY of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 25 MRSA Pt. 12** is enacted to read:

3 **PART 12**

4 **UNMANNED AERIAL VEHICLES**

5 **CHAPTER 551**

6 **REGULATION OF UNMANNED AERIAL VEHICLES**

7 **§4501. Definitions**

8 As used in this chapter, unless the context otherwise indicates, the following terms
9 have the following meanings.

10 **1. Law enforcement agency.** "Law enforcement agency" has the same meaning as
11 in section 3701, subsection 1.

12 **2. Unmanned aerial vehicle.** "Unmanned aerial vehicle" means an aircraft that is
13 operated without a physical human presence within or on the aircraft and that is guided
14 by remote control.

15 **§4502. Operation of unmanned aerial vehicles**

16 **1. Acquisition of unmanned aerial vehicles.** The acquisition of an unmanned aerial
17 vehicle by a law enforcement agency must be approved by the governing body of the
18 governmental unit overseeing the law enforcement agency seeking to make such an
19 acquisition.

20 **2. Moratorium.** Before July 1, 2017, a law enforcement agency may not use an
21 unmanned aerial vehicle except as provided in section 4503, subsection 1.

22 **3. Law enforcement operation of unmanned aerial vehicles.** A law enforcement
23 agency may not operate an unmanned aerial vehicle or collect, disclose or receive
24 information acquired through the operation of an unmanned aerial vehicle except:

25 A. Pursuant to an emergency enforcement or administrative investigation exception
26 under section 4503;

27 B. To collect, disclose or receive information about a person or the person's
28 residence, property or area if that person has given written consent;

29 C. Pursuant to a warrant issued under Title 15, section 55; or

30 D. Pursuant to an order issued by a court of competent jurisdiction if a law
31 enforcement agency offers specific and articulable facts demonstrating that there is a
32 reasonable suspicion of criminal activity, that the operation of the unmanned aerial
33 vehicle will uncover such activity and that alternative methods of collecting
34 information either are cost-prohibitive or present a significant risk to a person's
35 bodily safety. An order issued under this paragraph may not allow operation for a

1 period greater than 48 hours. An extension of an order issued under this paragraph
2 may be granted for a period no longer than the court determines necessary to achieve
3 the purposes for which the order was granted but not to exceed 30 days.

4 **4. Restrictions on operation.** An unmanned aerial vehicle may not employ the use
5 of facial recognition technology or be equipped with a weapon except as provided under
6 section 4503, subsection 3.

7 **§4503. Exceptions; allowed use of unmanned aerial vehicle**

8 Notwithstanding any other provision in this chapter, the following are not prohibited
9 uses of unmanned aerial vehicles.

10 **1. Emergency enforcement exception.** A law enforcement agency may operate an
11 unmanned aerial vehicle and collect, disclose or receive information from the operation if
12 the law enforcement agency reasonably determines that an emergency enforcement
13 exception is required.

14 A. An emergency enforcement exception may be required because a situation exists:

15 (1) That threatens national security;

16 (2) That threatens state or local security; or

17 (3) That threatens the life or safety of one or more individuals.

18 B. When a law enforcement agency has used an unmanned aerial vehicle to collect
19 or receive information pursuant to this subsection, the law enforcement agency shall
20 document the factual basis for the emergency enforcement exception in an affidavit
21 that the law enforcement agency retains.

22 **2. Administrative investigation exception.** The State or any political subdivision
23 of the State may operate an unmanned aerial vehicle:

24 A. To investigate and respond to natural disasters;

25 B. To monitor the status of dams and flood control systems;

26 C. To conduct surveys, including, but not limited to, surveys conducted by the
27 Department of Agriculture, Conservation and Forestry, Division of Geology, Natural
28 Areas and Coastal Resources, Maine Geological Survey;

29 D. To aid in weather forecasting; or

30 E. To conduct search and rescue activities.

31 **3. Research, testing, training and manufacture.** A manufacturer, subcontractor of
32 a manufacturer, testing company or educational institution may deploy an unmanned
33 aerial vehicle or any component parts for the purposes of research, testing, training and
34 manufacture of such vehicles.

35 **§4504. Warrant provisions**

36 **1. Absence of a warrant or court order.** If the information sought by the operation
37 of an unmanned aerial vehicle is obtained prior to the issuance of a warrant or court order

1 under section 4502, subsection 3, paragraph C or D, respectively, the law enforcement
2 agency shall immediately terminate the operation of the unmanned aerial vehicle.

3 **2. Denial of warrant or court order.** If an application for a warrant or court order
4 under section 4502, subsection 3, paragraph C or D, respectively, is denied, the law
5 enforcement agency shall immediately terminate the operation of the unmanned aerial
6 vehicle underlying the application and may not retain or disclose any information
7 obtained from the operation of the unmanned aerial vehicle.

8 **3. Delayed notice.** When a warrant or court order is sought under section 4502,
9 subsection 3, paragraph C or D, respectively, a law enforcement agency may request an
10 order delaying the notice required under the Maine Rules of Criminal Procedure, Rule
11 41B(b)(4) for a period not to exceed 10 days. The court may grant the request if the court
12 determines that providing the notice of the warrant or court order may have an adverse
13 result, which includes:

14 A. The endangerment of the life or physical safety of a person;

15 B. A person's fleeing from prosecution;

16 C. Destruction of or tampering with evidence;

17 D. A person's intimidating potential witnesses; and

18 E. An event that seriously jeopardizes an investigation or unduly delays a trial.

19 **4. Extension.** The court may grant an extension of the delayed notice under
20 subsection 3 for up to 10 days for each extension upon application by the law
21 enforcement agency.

22 **5. Expiration of delayed notice.** Upon expiration of the period of delayed notice
23 under subsection 3, the law enforcement agency shall serve upon, or deliver by registered
24 or first-class mail to, the person about whom information was collected a copy of the
25 warrant or court order together with notice that:

26 A. States with reasonable specificity the nature of the law enforcement inquiry; and

27 B. Informs the person about whom information was collected:

28 (1) That notification of the warrant or court order was delayed;

29 (2) What law enforcement agency made the request for delayed notice;

30 (3) What court made the determination to delay notice; and

31 (4) Which provision of subsection 3 supported the court's determination.

32 **§4505. Violations; private right of action**

33 If a law enforcement agency violates any provision of this chapter, the person about
34 whom information was collected, personally or as owner of a residence, property or area,
35 in violation of this chapter may institute and prosecute in that person's own name and on
36 that person's behalf a civil action for legal or equitable relief. In addition to
37 compensatory damages, a person whose rights have been violated by a violation of this
38 chapter may recover no more than \$5,000 plus reasonable attorney's fees and court costs.

1 **SUMMARY**

2 This bill regulates unmanned aerial vehicles, including their acquisition and lawful
3 operation by law enforcement agencies. The bill requires approval of the acquisition of
4 an unmanned aerial vehicle by the governing body overseeing the law enforcement
5 agency. It prohibits a law enforcement agency from operating an unmanned aerial
6 vehicle or collecting, disclosing or receiving information acquired through the operation
7 of an unmanned aerial vehicle except pursuant to an emergency enforcement or
8 administrative investigation exception, with the written consent of the person or property
9 owner, pursuant to a warrant or pursuant to a court order. It permits the deployment of an
10 unmanned aerial vehicle or any component parts by a manufacturer, subcontractor of a
11 manufacturer, testing company or educational institution for the purposes of research,
12 testing, training and manufacture of such vehicles. The bill also creates a private right of
13 action against a law enforcement agency for violations of the provisions of the bill.

14 The bill includes a moratorium on all unmanned aerial vehicle use, with the exception
15 of emergency enforcement situations, until July 1, 2017.