

**ASSEMBLY, No. 2301**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Assemblyman ERIK PETERSON**

**District 23 (Hunterdon, Somerset and Warren)**

**SYNOPSIS**

Prohibits the use of drones by law enforcement entities.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning police surveillance and supplementing Title 2A  
2 of the New Jersey Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. For the purposes of this act,

8 “Unmanned aerial system” means an aerial vehicle that uses  
9 aerodynamic forces to propel the vehicle and does not carry a human  
10 operator, and which is capable of flying autonomously or being piloted  
11 remotely and is capable of conducting surveillance as defined by this  
12 section; and

13 “Surveillance” means the act of monitoring, observing,  
14 photographing, listening to, or making a recording of a person or  
15 group of persons or their movements, activities and  
16 communications.

17 b. No law enforcement agency or officer shall utilize an  
18 unmanned aerial system to conduct surveillance as defined under  
19 subsection a. of this section or to gather any evidence or engage in  
20 any other law enforcement activity.

21 c. No State officer or any officer or agency of local  
22 government responsible for the implementation or enforcement of  
23 land-use and building regulations established by or pursuant to the  
24 “State Uniform Construction Code Act,” P.L.1975, c.217  
25 (C.52:27D-119 et seq.) or the “Municipal Land Use Law,”  
26 P.L.1975, c.291 (C.40:55D-1 et seq.) shall utilize an unmanned  
27 aerial system to conduct surveillance or to investigate, prosecute or  
28 cause to be prosecuted violators of the provisions of the “State  
29 Uniform Construction Code Act” or the “Municipal Land Use  
30 Law.”

31 d. The provisions of subsection b. of this section prohibiting a  
32 law enforcement agency or officer from utilizing an unmanned  
33 aerial system shall not apply if:

34 (1) the United States Secretary of the Department of Homeland  
35 Security determines that credible intelligence indicates that the use  
36 of a drone is necessary to counter a high risk of a terrorist attack by  
37 a specific individual or organization; or

38 (2) the unmanned aerial system is utilized by the forest fire  
39 service established under the Department of Environmental  
40 Protection pursuant to R.S.13:9-1 et seq. to survey or monitor the  
41 extent of a forest fire.

42 e. In addition to any other right of action or recovery otherwise  
43 available under the laws of this State, a law enforcement agency or  
44 officer who knowingly violates the provisions of this act shall be  
45 liable to a plaintiff whose image was taken or who was the subject  
46 of surveillance, or who was the subject of any other law  
47 enforcement activity conducted in violation of this section. The  
48 plaintiff may bring a civil action in the Superior Court, and the

1 court may award actual damages, punitive damages, reasonable  
2 attorney's fees and other litigation costs reasonably incurred, and  
3 any other preliminary and equitable relief as the court determines to  
4 be appropriate.

5 f. Any evidence derived from the use of an unmanned aerial  
6 system in violation of this section shall not be used as evidence in a  
7 criminal prosecution.

8 g. No law enforcement agency or officer shall utilize an  
9 unmanned aerial system in accordance with subsection d. of this  
10 section at an altitude that is greater than 350 feet.

11  
12 2. This bill shall take effect immediately.

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15 STATEMENT

16  
17 This bill prohibits the use of unmanned aerial vehicles,  
18 commonly referred to as drones, by law enforcement entities in this  
19 State. In February, the President of the United States signed the  
20 FAA Modernization and Reform Act of 2012. This act mandates  
21 that the Federal Aviation Administration administer a program that  
22 integrates the use of drones into the national airspace system.

23 Under the provisions of the bill, a law enforcement agency or  
24 officer is prohibited from utilizing a drone unless the United States  
25 Secretary of the Department of Homeland Security determines that  
26 credible intelligence indicates that the use of a drone is necessary to  
27 counter a high risk of a terrorist attack by a specific individual or  
28 organization. In addition, the bill prohibits any State officer or any  
29 officer or agency of local government responsible from utilizing a  
30 drone to enforce the land-use and building regulations established  
31 under the "State Uniform Construction Code Act" or the "Municipal  
32 Land Use Law." The bill waives the prohibition on using drones for  
33 the forest fire service established under the Department of  
34 Environmental Protection when the service or any members of the  
35 service utilize a drone to survey or monitor the extent of a forest  
36 fire. Finally, that a law enforcement entity or forest fire service that  
37 utilizes a drone is prohibited from operating the drone at an altitude  
38 of greater than 350 feet.

39 Any person whose image was taken, who was the subject of  
40 surveillance, or any other law enforcement activity in violation of  
41 the bill's provisions may bring a civil action against the law  
42 enforcement agency or officer in the Superior Court. The court may  
43 award actual damages, punitive damages, reasonable attorney's fees  
44 and other litigation costs reasonably incurred, and any other  
45 preliminary and equitable relief as the court determines to be  
46 appropriate.

47 The bill provides that any evidence illegally derived from the use  
48 of a drone is not to be used as evidence in a criminal prosecution.