STATE OF OKLAHOMA
1st Session of the 54th Legislature (2013)

HOUSE BILL 1556

By: Wesselhoft

AS INTRODUCED

An Act relating to aircraft; creating the Oklahoma Unmanned Aerial Surveillance Act; defining terms; prohibiting operation of an unmanned aircraft system for surveillance; providing exceptions; providing penalties; authorizing civil remedy; prohibiting information acquired through surveillance from being presented; requiring deletion of data acquired in certain circumstances; permitting incidental overflight of unmanned aircraft; limiting overflight to certain altitude; proscribing surveillance during overflight; requiring deletion of information gathered during overflight; providing penalties; prohibiting operation of a weaponized unmanned aircraft; prescribing penalties; excepting military personnel; limiting liability of unmanned aircraft manufacturer or seller; construing provision; providing for codification; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 1 through 7 of this act shall be known and may be cited as the Oklahoma Unmanned Aerial Surveillance Act.
SECTION 2. NEW LAW  A new section of law to be codified in the Oklahoma Statutes as Section 400 of Title 3, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Unmanned Aerial Surveillance Act:

1. “Aircraft” means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air or airspace;

2. “Court” means a court of competent jurisdiction, which for purposes of this act includes any Oklahoma court established pursuant to Section 1 of Article VII of the Oklahoma Constitution;

3. “Surveillance” means any activity the purpose of which is to gather any type of media, data, information, or evidence of any kind relating to the person, property, activities, acquaintances, associations, movements, choices, conduct, or appearance of another person or organization;

4. “Unmanned aircraft” means an aircraft that is operated without the possibility of human intervention from within or on the aircraft; and

5. “Unmanned aircraft system” means an unmanned aircraft and associated elements, including communication links, the components or systems that control the unmanned aircraft, and any devices, components, or systems by which data are gathered, transmitted, or recorded.
SECTION 3. NEW LAW  A new section of law to be codified in the Oklahoma Statutes as Section 401 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise specifically authorized in the Oklahoma Unmanned Aerial Surveillance Act, it shall be unlawful to operate an unmanned aircraft system for or in connection to surveillance within the state.

B. Notwithstanding the prohibition of subsection A of this section, it shall be lawful to operate an unmanned aircraft system within the state for surveillance, when the operator is:

1. A law enforcement agency or peace officer acting on a valid search warrant issued by a court of competent jurisdiction, and in full compliance with Sections 1221 through 1238 of Title 22 of the Oklahoma Statutes;

2. A law enforcement agency, peace officer, emergency services provider, or private contractor therewith, when conducting a search for a missing person, provided it is reasonable to believe that there is an imminent threat to the life or safety of the person, and the purpose of the surveillance is to assist the person. A reasonable articulable basis for this belief shall be placed in a written, sworn statement within twenty-four (24) hours of the commencement of surveillance and shall be maintained by the law enforcement agency, peace officer, or emergency services provider as a public record that shall be disclosed on request, but may be
redacted to prevent release of confidential or private information regarding the missing person;

3. A firefighting or emergency services agency or department, or other agency or individual acting in support thereof, when responding to a wildfire or other natural disaster, provided that the use of the unmanned aircraft system is necessary to monitor the progress of the disaster or direct the response. A statement outlining the necessity shall be placed in a written, sworn statement within twenty-four (24) hours of the commencement of surveillance and shall be maintained by the firefighting or emergency services agency or department as a public record that shall be disclosed on request;

4. Any agency, person, or organization, when acting on the informed and freely given consent of the person or organization whose person or property are the subject of the surveillance, provided the consent is made in writing prior to the commencement of surveillance; or

5. Any authorized public officer or county, state, or federal agency, when conducting surveillance exclusively of public land or property, provided that the surveillance may not be targeted at gathering or producing information concerning any private citizens or organizations that are using or present on the land or property.

C. Any person engaging in surveillance in violation of subsection A of this section shall be guilty of a misdemeanor, and
shall be punished by a sentence of not more than one (1) year in the county jail and a fine of not less than Five Hundred Dollars ($500.00), nor greater than Five Thousand Dollars ($5,000.00), for each violation.

D. Regardless of whether a criminal prosecution or investigation is made, any person or organization aggrieved by conduct in violation of subsection A of this section shall have the right to bring a civil action against the responsible party or parties, who shall be liable for treble actual damages. In addition, any willful or wanton conduct of the violator or deliberate effort to conceal the violation shall be subject to punitive damages not to exceed Fifty Thousand Dollars ($50,000.00) per violation. A civil claim brought under this subsection shall be proven by a preponderance of the evidence, and shall be brought any time within two (2) years of discovery of the surveillance by the plaintiff.

E. No information, data, or media acquired by surveillance in violation of subsection A of this section, and no evidence derived therefrom, shall be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority existing under the laws of this state, except for that introduced in any proceeding brought against a violator of this act.
F. When unmanned aerial vehicles are used pursuant to subsection B of this section, they shall be operated in a manner to collect data only on the target of the surveillance and to avoid data collection on individuals, homes, or areas other than the target. Data collected on any individual, home, or area other than the target that justified deployment shall not be used, copied, or disclosed for any purpose. The data shall be deleted as soon as possible, and in no event later than twenty-four (24) hours after collection.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 402 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. Nothing in the Oklahoma Unmanned Aerial Surveillance Act shall prohibit an operator of an unmanned aircraft system from causing or allowing an unmanned aircraft to fly over public or private land in transit to or from its destination or base of operation, so long as the overflight is otherwise in compliance with state and federal law and any applicable Federal Aviation Administration regulations. In addition, the incidental overflight shall not go lower than five hundred (500) feet above ground level and consist of no surveillance while in transit. During any incidental overflight, an unmanned aircraft shall use no surveillance system or device included in or mounted thereon, unless necessary for safe operation or navigation.
B. Any information, media, or data of any kind gathered during overflight shall be inadmissible in any legal proceeding of any kind conducted pursuant to the laws of the State of Oklahoma.

C. Data collected on any individual, home, or area other than the target that justified deployment shall not be used, copied, or disclosed for any purpose. The data collected shall be deleted as soon as possible, and in no event later than twenty-four (24) hours after collection.

D. Any willful disclosure of media, data, or information, unless authorized by Section 3 of the Oklahoma Unmanned Aerial Surveillance Act, shall be punishable as a misdemeanor, with a sentence not to exceed six (6) months in the county jail and a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) per violation.

E. Whenever an agent of the state or any political subdivision of the state uses an unmanned aerial vehicle, no part of the information acquired and no evidence derived therefrom shall be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state or a political subdivision of the state if the disclosure of that information would be in violation of this act.
SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. No person shall operate an unmanned aircraft system that contains, mounts, or possesses any lethal or nonlethal weapon or weapons system of any kind.

B. Any person operating a weaponized unmanned aircraft system in violation of subsection A of this section shall be guilty of a felony, and shall be punished by a sentence of not more than ten (10) years in the custody of the Department of Corrections and a fine of not less than One Thousand Dollars ($1,000.00), nor greater than Ten Thousand Dollars ($10,000.00), for each violation.

C. The prohibition and penalties contained in this section shall not apply to duly authorized members, agents, or contractors of the United States military, when operating weaponized unmanned aircraft systems over public land for purposes of testing or training.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404 of Title 3, unless there is created a duplication in numbering, reads as follows:

No manufacturer or seller of an unmanned aircraft system shall be held liable in any civil or criminal court or tribunal for any subsequent violation of the Oklahoma Unmanned Aerial Surveillance
Act by any other person, organization, or agency operating an unmanned aircraft system in surveillance activities.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405 of Title 3, unless there is created a duplication in numbering, reads as follows:

Nothing in the Oklahoma Unmanned Aerial Surveillance Act shall be construed to attempt to override or supersede applicable federal law.

SECTION 8. This act shall become effective November 1, 2013.

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