

Amendment No. 1 to SB0796

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 796

House Bill No. 591*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 13, Part 6, is amended by adding the following language as a new section:

(a) This section shall be known and may be cited as the "Freedom from Unwarranted Surveillance Act".

(b) As used in this section:

(1) "Drone" means a powered, aerial vehicle that:

(A) Does not carry a human operator and is operated without the possibility of direct human intervention from within or on the aircraft;

(B) Uses aerodynamic forces to provide vehicle lift;

(C) Can fly autonomously or be piloted remotely; and

(D) Can be expendable or recoverable;

(2) "Law enforcement agency" means a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.

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(c) Except as provided in subsection (d), no law enforcement agency shall use a drone to gather evidence or other information.

(d) This section shall not prohibit the use of a drone:

(1) To counter a high risk of a terrorist attack by a specific individual or organization if the United States secretary of homeland security determines that credible intelligence indicates that there is such a risk;

(2) If the law enforcement agency first obtains a search warrant signed by a judge authorizing the use of a drone;

(3) If the law enforcement agency possesses reasonable suspicion that, under particular circumstances, swift action is needed to prevent imminent danger to life;

(4) To provide continuous aerial coverage when law enforcement is searching for a fugitive or escapee or is monitoring a hostage situation;
or

(5) To provide more expansive aerial coverage when deployed for the purpose of searching for a missing person.

(e) An aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief, as determined by the court, in order to prevent or remedy a violation of this section.

(f) No data collected on an individual, home, or areas other than the target that justified deployment may be used, copied or disclosed for any purpose. Such data must be deleted as soon as possible, and in no event later than twenty-four (24) hours after collection.

(g)

(1) The use of a drone to gather evidence or information shall constitute a search. Any law enforcement agency that uses a drone, or other substantially similar device to gather evidence or obtain information, shall comply in all respects with the fourth amendment to the Constitution of the United States and article I, § 7, of the Constitution of Tennessee.

(2) Absent exigent circumstances or another authorized exception to the warrant requirement, evidence obtained or collected in violation of this section shall not be admissible as evidence in a criminal prosecution in any court of law in this state.

SECTION 2. This act shall take effect July 1, 2013, the public welfare requiring it.