

Drone Use and Aerial Surveillance Statement

The rapid expansion of aerial surveillance technology with unmanned vehicles like drones was an issue of significant concern and interest across states. The signaling by the Federal Aviation Administration to open up more air space for commercial use by drones, and their application for law enforcement purposes precipitated the passage of several pieces of legislation across the country adding new parameters on the use of this transformational technology.

Florida

Florida became the first state in the country to pass a measure that limits how state police can use drones equipped with surveillance cameras and other monitoring equipment. The only situations where police will be allowed to use drones without a warrant is if there is an imminent risk to property or life, or if the U.S. Department of Homeland Security declares a high risk of a terrorist attack. [Senate Bill 92](#) was approved 39-0 by the Senate, and it passed through all its committees unanimously before being signed into law in the spring of 2013. Below is a summary produced by the Florida Senate Criminal Justice Committee outlining the provisions of the Act:

The bill creates the “Freedom from Unwarranted Surveillance Act,” which prohibits law enforcement agencies from using drones to gather evidence or other information, unless:

- The U.S. Secretary of Homeland Security determines that credible intelligence exists indicating a high risk of a terrorist attack by an individual or organization.
- The law enforcement agency first obtains a search warrant authorizing the use of a drone.
- The law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life, such as to facilitate the search for a missing person, to prevent serious damage to property, or to forestall the imminent escape of a suspect or the destruction of evidence.

Evidence gathered in violation of the bill is inadmissible in a criminal prosecution in any court of law in this state. Provisions are made for civil actions by an aggrieved party against a law enforcement agency that violates the prohibitions in the bill.

If approved by the Governor, these provisions take effect July 1, 2013.

Idaho

Upon the passage of [Senate Bill 1134](#) in the spring of 2013, Idaho became the first state to require police to obtain warrants before using surveillance drones over homes, businesses or farm fields. From the Statement of Purpose prepared by the Legislative Services Office:

This legislation adds a new section to Idaho Code to define "unmanned aircraft system" excluding model flying airplanes or rockets, and to exclude unmanned aircraft used in taking commercial photography.

This provides that no person, entity or state agency may use an unmanned aircraft system to conduct unwarranted surveillance or observation of an individual or a dwelling owned by an individual without reasonable, articulable suspicion of criminal conduct. The same restrictions for unwarranted observation or surveillance will be used for a farm, dairy, ranch or other agricultural industry, except for state and local law enforcement agencies engaged in marijuana eradication efforts.

This also provides that no person, entity or state agency may use an unmanned aircraft system to photograph an individual without reasonable, articulable suspicion of criminal conduct and without consent from the individual for the purpose of publishing or publicly distributing photographs.

This provides for a civil cause of action and a fine in the amount of \$1000.00. This allows for utility companies to inspect facilities when there is a valid easement permit or right of occupancy

Virginia

The passage of [H 2012](#) in 2013 established a two-year moratorium on drone use by police and regulatory agencies; however, exceptions were included for disaster response efforts, missing-person searches/Amber alerts, and National Guard training exercises. Below is a summary prepared by the Virginia Legislative Information System on the Act:

Places a moratorium on the use of unmanned aircraft systems by state and local law enforcement and regulatory entities until July 1, 2015, except in defined emergency situations or in training exercises related to such situations. The moratorium does not apply to certain Virginia National Guard functions or to research and development conducted by institutions of higher education or other research organizations. The bill requires the Department of Criminal Justice Services, in consultation with the Office of the Attorney General and other agencies, to develop protocols for the use of drones by law-enforcement agencies and report its findings to the Governor and the General Assembly by November 1, 2013.