

2016 -- S 2230

=====
LC003717
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO CRIMINAL PROCEDURE - AERIAL PRIVACY PROTECTION ACT

Introduced By: Senators Kettle, and Morgan

Date Introduced: January 27, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 5.3

4 AERIAL PRIVACY PROTECTION ACT

5 **12-5.3-1. Legislative findings.** -- The general assembly finds and declares the following:

6 (1) The right to privacy is fundamental in a free and civilized society;

7 (2) Persons within the state have a reasonable and justifiable expectation of privacy and
8 that they will not be monitored with unmanned aerial vehicles (UAVs) by law enforcement agents
9 of the state without a warrant based on probable cause having first issued;

10 (3) The potential benefit to law enforcement and criminal justice from the use of UAVs,
11 without a warrant first issuing, is far outweighed by the degradation to the fundamental right to
12 privacy secured by the constitution of the United States and the constitution of the state of Rhode
13 Island that will result from law enforcement's use of UAVs without first obtaining a warrant;

14 (4) The use of UAVs by law enforcement without first obtaining a warrant is repugnant
15 to a free society.

16 **12-5.3-2. Definitions.** -- As used in this chapter:

17 (1) "Law enforcement agent of the state of Rhode Island or its municipalities" means any
18 officer, employee or agent of the state of Rhode Island, or any officer employee or agent of a
19 branch, department or agency of the state of Rhode Island or its municipalities, or any person or

1 entity acting under contract with the state of Rhode Island or its municipalities or any branch,
2 department or agency thereof, for the purpose of law enforcement.

3 (2) "Unmanned aerial vehicle" (UAV) means any aircraft without a human pilot on
4 board.

5 **12-5.3-3. Unmanned Aerial Vehicle Restrictions.** -- (a) A law enforcement agent of the
6 state of Rhode Island or its municipalities shall first obtain a warrant prior to utilizing a UAV for
7 any purpose whatsoever, including, but not limited to, the monitoring, recording or otherwise
8 observing persons, places or things, and also including the interception of wire, electronic or oral
9 communications, within the airspace of the state of Rhode Island.

10 (b) The failure of a law enforcement agent to obtain a warrant as specified herein shall
11 constitute an unreasonable and actionable violation and invasion of privacy.

12 (c) Any information or evidence gathered by a UAV without a warrant, and any
13 information or evidence derived as a result of the use of a UAV without a warrant, is declared
14 inadmissible in any civil or criminal court of law in the state of Rhode Island.

15 **12-5.3-4. Issuance of warrant.** -- A warrant shall be issued by a duly authorized state
16 magistrate or judge, or a federal magistrate or judge, using the procedures established by
17 applicable law. Any such warrant shall be based on probable cause established by oath or
18 affirmation, shall be obtained prior to the use of a UAV, and shall expire forty-eight (48) hours
19 after issuance.

20 **12-5.3-5. Construction and severability.** -- (a) This section shall be construed broadly
21 to effect the legislative intent of requiring a warrant prior to the use of UAVs within the state of
22 Rhode Island by law enforcement, and requiring a warrant in order for any information or
23 evidence obtained by a UAV, or as a result of the use of a UAV, to be admissible in a court of
24 law.

25 (b) Severability: If any provision, portion or subdivision of this chapter is or becomes
26 illegal, such illegality shall not affect the remainder of this chapter.

27 SECTION 2. This act shall take effect upon passage.

=====
LC003717
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE - AERIAL PRIVACY PROTECTION ACT

1 This act would prohibit law enforcement from using unmanned aerial vehicles without a
2 proper warrant.

3 This act would take effect upon passage.

=====
LC003717
=====