

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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HOUSE BILL 312

Short Title: Preserving Privacy Act of 2013. (Public)

Sponsors: Representatives Setzer, Moffitt, D. Hall, and Harrison (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 18, 2013

A BILL TO BE ENTITLED
AN ACT TO REGULATE THE USE OF DRONES TO CONDUCT SEARCHES.
The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the "Preserving Privacy Act of 2013."

SECTION 2. Article 10 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-232. Searches using a drone.

(a) Definitions. - The following definitions apply in this section:

(1) Drone. - Any powered aerial vehicle that (i) does not carry a human operator, (ii) can fly autonomously or be piloted remotely, and (iii) is expendable or recoverable.

(2) Person. - Any employee or agent of the United States or any state or any political subdivision thereof and any individual, partnership, association, business establishment, or any other legal or commercial entity.

(3) Search warrant. - As defined in G.S. 15A-241.

(b) Prohibition. - Except as provided in subsection (c) of this section, it shall be unlawful for any person or municipal, county, or State law enforcement agency to use a drone for the purpose of gathering evidence or other information or data pertaining to criminal conduct or conduct in violation of a statute or rule. A person or municipal, county, or State law enforcement agency may use a drone for purposes other than gathering evidence or other information or data pertaining to criminal conduct or conduct in violation of a statute or rule, but any information or data acquired from the use of the drone shall not be disclosed and shall be inadmissible in any criminal, civil, or administrative proceeding.

(c) Exceptions. - The prohibition in subsection (b) of this section shall not apply to the following:

(1) A municipal, county, or State law enforcement agency using a drone to conduct a search pursuant to a search warrant. Any search authorized under this subdivision shall be limited to the scope of the warrant, and the warrant shall specifically state that the use of a drone is authorized.

(2) A municipal, county, or State law enforcement agency using a drone to conduct a search if consent to the search is given in accordance with Article 9 of this Chapter.

(3) A municipal, county, or State law enforcement agency using a drone to conduct a search if the law enforcement agency possesses reasonable suspicion that immediate action is needed to prevent (i) imminent harm to



1 life, (ii) serious damage to property, (iii) the imminent escape of a suspect,
2 or (iv) the imminent destruction of evidence. The use of a drone pursuant to
3 this subdivision is subject to the following limitations:

4 a. The search shall be documented, including the factual basis for
5 possessing reasonable suspicion that immediate action was needed to
6 prevent (i) imminent harm to life, (ii) serious damage to property,
7 (iii) the imminent escape of a suspect, or (iv) the imminent
8 destruction of evidence.

9 b. No later than 48 hours after the date on which a municipal, county, or
10 State law enforcement agency uses a drone to conduct a search, a
11 supervisory official with the law enforcement agency shall file a
12 sworn statement with the clerk of court in the county in which the
13 drone was used setting forth the information required in
14 sub-subdivision a. of this subdivision.

15 (d) Scope of Search. – When a drone is used pursuant to subsection (c) of this section, it
16 shall be operated in a manner to collect information or data only on the person or location
17 subject to the search and to avoid information or data collection on individuals, homes, or areas
18 other than the subject of the search. Neither facial recognition nor other biometric matching
19 technology may be used on information or data collected from the use of a drone that pertains
20 to individuals, homes, or areas other than the subject of the search.

21 (e) Penalties – An aggrieved party may bring a civil action against any person who
22 violates the provisions of this section. Any person who willfully and knowingly violates
23 subsection (b) of this section is guilty of a Class 1 misdemeanor. Any person who violates
24 subsection (g) of this section is guilty of a Class 3 misdemeanor.

25 (f) Suppression. – Any information or data obtained or collected in violation of this
26 section shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

27 (g) Data Retention. – Any information or data willfully and knowingly obtained or
28 collected in violation of this section shall be destroyed within 24 hours after the date on which
29 the information or data was first obtained or collected. If a court of competent jurisdiction
30 renders a final decision finding that information or data was obtained or collected in violation
31 of this section, the information or data obtained or collected in violation of this section shall be
32 destroyed within 24 hours after the date of the final decision.

33 (h) Reporting Requirement. – By January 31 of each year, any official listed in
34 G.S. 15A-243 who issues a search warrant during the preceding calendar year authorizing the
35 use of a drone shall report to the Administrative Office of the Courts the identity of the law
36 enforcement agency to which the search warrant was issued, the offense specified in the
37 warrant, and the nature of the facilities or property searched.

38 Beginning April 1, 2014, and every year thereafter, the Administrative Office of the Courts
39 shall report to the General Assembly the information received pursuant to this subsection. The
40 Administrative Office of the Courts shall adopt rules governing the content and form of the
41 report required by this subsection and shall publish on its Web site any part of the report that is
42 a public record under Chapter 132 of the General Statutes."

43 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
44 offenses committed on or after that date.