

1 SENATE BILL 303

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PRIVACY; ENACTING THE FREEDOM FROM UNWARRANTED  
12 SURVEILLANCE ACT; PROVIDING PENALTIES.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
16 cited as the "Freedom from Unwarranted Surveillance Act".

17 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
18 Freedom from Unwarranted Surveillance Act:

19 A. "drone" means a powered aerial vehicle that:

- 20 (1) does not carry a human operator;
- 21 (2) uses aerodynamic forces to provide vehicle  
22 lift;
- 23 (3) can fly autonomously or be piloted  
24 remotely;
- 25 (4) can be expendable or recoverable; and

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1 (5) can carry a lethal or non-lethal payload;

2 B. "law enforcement agency" means any federal,  
3 state, tribal, county or municipal law enforcement agency in  
4 the state; and

5 C. "unmanned aircraft" means aircraft that is  
6 operated without the possibility of direct human intervention  
7 from within or on the aircraft.

8 SECTION 3. [NEW MATERIAL] PROHIBITION AGAINST  
9 SURVEILLANCE BY DRONE OR UNMANNED AIRCRAFT.--

10 A. A person, state agency, law enforcement agency  
11 or political subdivision of the state shall not use a drone or  
12 unmanned aircraft to gather evidence or other information  
13 pertaining to criminal conduct or conduct in violation of a  
14 statute or regulation except to the extent authorized in a  
15 warrant.

16 B. A person, state agency or political subdivision  
17 of the state shall not use a drone or unmanned aircraft to  
18 conduct surveillance of an individual or of property owned by  
19 an individual, farm or agricultural operation without the  
20 consent of that individual, property owner, farm or  
21 agricultural operation.

22 SECTION 4. [NEW MATERIAL] USE OF DRONES OR UNMANNED  
23 AIRCRAFT UNDER EXIGENT CIRCUMSTANCES.--The Freedom from  
24 Unwarranted Surveillance Act does not prohibit the use of a  
25 drone by a law enforcement agency when exigent circumstances

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1 exist. For the purposes of this section, exigent circumstances  
2 exist if a law enforcement agency possesses reasonable  
3 suspicion that, under particular circumstances, swift action is  
4 necessary to prevent imminent danger to life.

5 SECTION 5. [NEW MATERIAL] WARRANTED SURVEILLANCE  
6 INFORMATION--CHAIN OF CUSTODY.--Any image, data or other  
7 material acquired under the Freedom from Unwarranted  
8 Surveillance Act shall be maintained together with a complete  
9 and unbroken record of chain of custody.

10 SECTION 6. [NEW MATERIAL] REMEDIES--PENALTIES.--

11 A. An aggrieved party may in a civil action obtain  
12 all appropriate relief to prevent or remedy a violation of the  
13 Freedom from Unwarranted Surveillance Act and shall be exempt  
14 from prosecution or liability for engaging self-help in  
15 removing an offending drone or unmanned aircraft operating in  
16 violation of that act.

17 B. No information obtained or collected in  
18 violation of the Freedom from Unwarranted Surveillance Act  
19 shall be admissible as evidence in a civil or criminal  
20 proceeding in any court of law in the state or in an  
21 administrative hearing except to establish a violation of that  
22 act.

23 C. A person who violates Section 3 of the Freedom  
24 from Unwarranted Surveillance Act is guilty of a petty  
25 misdemeanor and is punishable pursuant to Section 31-19-1 NMSA

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1 1978 and shall forfeit and relinquish all images, data and  
2 information collected to the aggrieved party. If a violator  
3 uses or disseminates any material collected in violation of the  
4 Freedom from Unwarranted Surveillance Act, that person is  
5 guilty of a fourth degree felony punishable pursuant to Section  
6 31-18-15 NMSA 1978.

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