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An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA Pt. 12 is enacted to read:

PART 12

UNMANNED AERIAL VEHICLES

CHAPTER 551

REGULATION OF UNMANNED AERIAL VEHICLES

§ 4501. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Law enforcement agency. "Law enforcement agency" has the same meaning as in section 3701, subsection 1.

2. Unmanned aerial vehicle. "Unmanned aerial vehicle" means an aircraft that is operated without a physical human presence within or on the aircraft and guided by remote control.

§ 4502. Operation of unmanned aerial vehicles

1. Acquisition of unmanned aerial vehicles. The acquisition of an unmanned aerial vehicle must be approved by the governing body of the governmental unit overseeing the law enforcement agency seeking to make such an acquisition.

2. Operation of unmanned aerial vehicles. Operation of an unmanned aerial vehicle must fully comply with all Federal Aviation Administration requirements and guidelines. A law enforcement agency may not operate an unmanned aerial vehicle or collect, disclose or receive information acquired through the operation of an unmanned aerial vehicle except:

A. Pursuant to an emergency enforcement exception under section 4504;

B. To collect, disclose or receive information about a person or the person's residence, property or area if that person has given written consent;

C. To assist a person in an emergency circumstance in which it is reasonable to believe that there is an imminent threat to the life or safety of the person, subject to the following limitations:

(1) The law enforcement agency documents the factual basis for the emergency; and

(2) Not later than 48 hours after the emergency operation begins, a supervisory official for the law enforcement agency files a sworn statement setting forth the grounds for the emergency operation;

D. Pursuant to a warrant issued under Title 15, section 55; or

E. Pursuant to an order issued by a court of competent jurisdiction if a law enforcement agency offers specific and articulable facts demonstrating that there is a reasonable suspicion of criminal activity, that the operation of the unmanned aerial vehicle will uncover such activity and that alternative methods of collecting information either are cost-prohibitive or present a significant risk to a person's bodily safety. An order issued under this paragraph may not allow operation for a period greater than 48 hours. An extension of an order issued under this paragraph may be granted for a period no longer than the court determines necessary to achieve the purposes for which it was granted but not to exceed 30 days.

3. Restrictions on operation. The operation of an unmanned aerial vehicle may not:

A. Be conducted for a purpose other than a specific purpose allowed under subsection 2 or section 4504;

B. Be conducted by a person other than a law enforcement agency pursuant to this chapter or a person otherwise authorized by law;

C. Employ the use of facial recognition technology or other biometric technology; or

D. Collect information on a person, residence, property or area not related to a permitted purpose of operation under subsection 2.

An unmanned aerial vehicle may not be equipped with a weapon.

§ 4503. Retention of information

Information collected by an unmanned aerial vehicle may not be used, copied or disclosed for any purpose other than for a lawful purpose under section 4502, subsection 2. Information collected by an unmanned aerial vehicle for any purpose other than for a lawful purpose under section 4502, subsection 2 must be deleted as soon as possible and no later than 24 hours after collection. Information collected by an unmanned aerial vehicle under section 4502, subsection 2 may be received in evidence in a trial, hearing or other proceeding in or before a court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of the State or a municipality only if the use of that information as evidence was part of the lawful purpose allowing the unmanned aerial vehicle operation under section 4502, subsection 2.

§ 4504. Emergency enforcement exception

1. Emergency enforcement exception. A law enforcement agency may operate an unmanned aerial vehicle and collect, disclose or receive information from the operation if the law enforcement agency reasonably determines that an emergency enforcement exception is required because a situation exists:

- A. That involves a conspiratorial activity that threatens the national security interest or that is characteristic of organized crime;
- B. That requires the operation of an unmanned aerial vehicle before a warrant under section 4502, subsection 2, paragraph D or court order under section 4502, subsection 2, paragraph E with due diligence can be obtained;
- C. In which there are grounds upon which a warrant under section 4502, subsection 2, paragraph D or court order under section 4502, subsection 2, paragraph E could be entered to authorize the operation of an unmanned aerial vehicle; and
- D. For which an application for a warrant under section 4502, subsection 2, paragraph D or court order under section 4502, subsection 2, paragraph E approving the operation is made within 48 hours after the operation of an unmanned aerial vehicle has occurred.

2. Absence of a warrant or court order. If the information sought by the operation of an unmanned aerial vehicle is obtained prior to the issuance of a warrant or court order under subsection 1, the law enforcement agency shall immediately terminate the operation of the unmanned aerial vehicle.

3. Denial of warrant or court order. If the application for a warrant or court order under subsection 1 is denied, the operation of the unmanned aerial vehicle underlying the application must be immediately terminated and any information obtained from the operation of the unmanned aerial vehicle must be treated as having been obtained in violation of this chapter.

§ 4505. Delayed notice

1. Delayed notice. When a warrant or court order is sought under section 4502, subsection 2, paragraph D or E or section 4504, a law enforcement agency may request an order delaying the notice required under the Maine Rules of Criminal Procedure, Rule 41B(b)(4) for a period not to exceed 10 days. The court may grant the request if the court determines that the notification of the warrant or court order may have an adverse result under subsection 2.

2. Adverse result. An adverse result for the purposes of a delayed notice under subsection 1 includes the subject of the warrant or court order or other person of interest:

- A. Endangering the life or physical safety of a person;
- B. Fleeing from prosecution;
- C. Destroying or tampering with evidence;

D. Intimidating potential witnesses; and

E. Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

3. Extension. The court may grant an extension of the delayed notice under subsection 1 for up to 10 days for each extension upon application by the law enforcement agency.

4. Expiration of delayed notice. Upon expiration of the period of delayed notice under subsection 1, the law enforcement agency shall serve upon, or deliver by registered or first-class mail to, the person about whom information was collected a copy of the warrant or court order together with notice that:

A. States with reasonable specificity the nature of the law enforcement inquiry; and

B. Informs the person about whom information was collected:

(1) That notification of the warrant or court order was delayed;

(2) What law enforcement agency made the request for delayed notice;

(3) What court made the determination to delay notice; and

(4) Which provision of subsection 2 supported the court's determination.

§ 4506. Violations

1. Private right of action. If a law enforcement agency violates any provision of this chapter, the person about whom information was collected personally or as owner of a residence, property or area in violation of this chapter may institute and prosecute in that person's own name and on that person's behalf a civil action for legal or equitable relief. In addition to compensatory damages, a person whose rights have been violated by a violation of this chapter may recover no more than \$5,000 plus reasonable attorney's fees and court costs.

2. Attorney General. The Attorney General may bring a civil action to enforce the provisions of this chapter.

3. Motion to suppress. A court may not allow to be received into evidence any information collected, disclosed or received in violation of this chapter and shall grant a motion to suppress as evidence any information collected, disclosed or received in violation of this chapter.

§ 4507. Reporting

1. Reporting by law enforcement agency. In June of each year, a law enforcement agency that uses an unmanned aerial vehicle shall report to the Legislature, retain for public viewing and post on its publicly accessible website, if one exists:

- A. The number of times an unmanned aerial vehicle was operated, organized by the types of incidents and the types of justification for operation;
- B. The number of criminal investigations aided by the operation of an unmanned aerial vehicle and a description of how the unmanned aerial vehicle aided each investigation;
- C. The number of times an unmanned aerial vehicle was operated for reasons other than a criminal investigation and a description of how the unmanned aerial vehicle aided each operation;
- D. The frequency and type of information collected on an individual, residence, property or area that was not the subject of an operation; and
- E. The total cost of operating the unmanned aerial vehicle for the preceding 12 months.

2. Reporting by Attorney General to the court. In March of each year the Attorney General or the Attorney General's designee shall report to the Administrative Office of the Courts the number of applications for a warrant under section 4502, subsection 2, paragraph D; court order under section 4502, subsection 2, paragraph E; order for delayed notice under section 4505, subsection 1; and extension of delayed notice under section 4505, subsection 3 made during the preceding calendar year. For each warrant, court order, order for delayed notice and extension of delayed notice reported pursuant to this subsection, the report must include:

- A. A general description of the information collected under the warrant, court order, order for delayed notice or extension of delayed notice, including:
 - (1) The approximate nature and frequency of incriminating conduct;
 - (2) The approximate number of persons about whom information was collected; and
 - (3) The approximate nature, amount and cost of the personnel and other resources used in the collection;
- B. The number of arrests resulting from the information collected and the offenses for which arrests were made;
- C. The number of trials resulting from the information collected;
- D. The number of motions to suppress made with respect to the information collected and the number of those motions granted or denied; and

E. The number of convictions resulting from the information collected and the offenses for which the convictions were obtained and a general assessment of the importance of the information.

3. Reporting by Attorney General to the Legislature and public. The Attorney General shall post in June of each year on the Attorney General's publicly accessible website and transmit to the Legislature a full and complete report listing the number of applications for warrants and court orders authorizing and approving operation of unmanned aerial vehicles and disclosure of information collected from the operation of unmanned aerial vehicles pursuant to this chapter and the number of warrants, court orders, orders for delayed notice and extensions of delayed notice granted and denied pursuant to this chapter during the preceding calendar year.

4. Record keeping. A law enforcement agency shall keep a detailed record about each operation of an unmanned aerial vehicle including all information required to be reported in this section and make this record available to the Attorney General.

SUMMARY

This bill regulates unmanned aerial vehicles, including their acquisition and lawful operation by law enforcement agencies in collecting, disclosing and receiving information and the retention of information collected. For the permitted operation of an unmanned aerial vehicle, the bill requires the consent of the subject person, a warrant or court order, an emergency situation that threatens life or serious bodily injury or an emergency enforcement situation that threatens national security or evinces conspiratorial criminal conduct requiring immediate operation of the vehicle before a warrant can be obtained. The bill also allows delayed service of a warrant or court order informing the subject person until after the warrant's or order's issuance if necessary for avoiding certain adverse results. The bill provides for a private right of action or enforcement by the Attorney General for a violation and disallows the use of any information collected in violation as evidence in a hearing or court of law. The bill requires the Attorney General to report certain information concerning the use of unmanned aerial vehicles to the Legislature and the Administrative Office of the Courts and for law enforcement agencies and the Attorney General to post certain information on their publicly accessible websites.