

# AN ACT

To amend sections 4561.01 and 4561.11 and to enact sections 4561.60, 4561.61, 4561.62, 4561.63, 4561.64, and 5501.84 of the Revised Code to establish requirements related to the use and purchase of an unmanned aerial vehicle by law enforcement and other public entities and to expressly incorporate additional aviation facilities into the Aeronautics Law.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4561.01 and 4561.11 be amended and sections 4561.60, 4561.61, 4561.62, 4561.63, 4561.64, and 5501.84 of the Revised Code be enacted to read as follows:

Sec. 4561.01. As used in sections 4561.01 to 4561.27 of the Revised Code:

(A) "Aviation" means transportation by aircraft; operation of aircraft; the establishment, operation, maintenance, repair, and improvement of airports, seaplane bases, heliports, vertiports, spaceports, landing fields, and other air navigation facilities; and all other activities connected therewith or incidental thereto.

(B) "Aircraft" means any manned device used or intended for flight in the air. "Aircraft" does not include an ultralight vehicle as defined by 14 C.F.R. part 103.

(C) "Airport" means any location either on land or water which is used for the landing and taking off of aircraft.

(D) "Landing field" means any location either on land or water of such size and nature as to permit the landing or taking off of aircraft with safety, and used for that purpose but not equipped to provide for the shelter, supply, or care of aircraft.

(E) "Air navigation facility" means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft, or to the safe and efficient operation or maintenance of an airport or landing field, and any combination of such facilities.

(F) "Air navigation hazard" means any structure, object of natural growth, or use of land, that obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field, or that otherwise is hazardous to such landing or taking off.

(G) "Air navigation," "navigation of aircraft," or "navigate aircraft" means the operation of aircraft in the air space over this state.

(H) "Airperson" means any individual who, as the person in command, or as pilot, mechanic,

or member of the crew, engages in the navigation of aircraft.

(I) "Airway" means a route in the air space over and above the lands or waters of this state, designated by the Ohio aviation board as a route suitable for the navigation of aircraft.

(J) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(K) "Government agency" means a state agency, state institution of higher education, regional port authority, or any other political subdivision of the state, or the federal government or other states.

(L) "Heliport" means the area of land, water, or a structure that is used or intended to be used for the landing and takeoff of helicopters, including any appurtenant buildings and facilities.

(M) "Vertiport" means the identifiable ground or elevated areas, including the facilities thereon, that are designed to be used for the landing and takeoff of rotorcraft, tilt-rotor aircraft, or other powered lift aircraft.

(N) "Spaceport" means any facility in the state at which space vehicles may be landed or launched, including all facilities and support infrastructure related to the launch, landing, and payload processing.

(O) "Seaplane base" means a designated area of water used or intended to be used for the landing and takeoff of seaplanes including shore side access and any appurtenant buildings and facilities.

Sec. 4561.11. (A) All airports, seaplane bases, heliports, vertiports, spaceports, landing fields, and landing areas shall be approved by the department of transportation before being used for commercial purposes. The department may issue a certificate of approval in each case. The department shall require that a complete plan of such airport, seaplane base, heliport, vertiport, spaceport, landing field, or landing area be filed with it before granting or issuing such approval; provided that in no case in which the department licenses or certifies an airport, seaplane base, heliport, vertiport, spaceport, landing field, or landing area constructed, maintained, or supported, in whole or in part, by public funds, under sections 4561.01 to 4561.151 of the Revised Code, shall the public be deprived of the use thereof or its facilities for aviation purposes as fully and equally as all other parties.

(B) In any case in which the department rejects or disapproves an application to operate an airport, seaplane base, heliport, vertiport, spaceport, landing field, or landing area, or in any case in which the department issues an order requiring certain things to be done before approval, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case in which the department considers it necessary, it may order the closing of any airport, seaplane base, heliport, vertiport, spaceport, landing field, or landing area for commercial purposes until the requirements of the order made by the department are complied with.

(C) Appeal from any action or decision of the department in any such matter shall be made in accordance with sections 119.01 to 119.13 of the Revised Code.

(D)(1) The department shall require that any person engaged within this state in operating aircraft, in any form of navigation, shall be the holder of a currently effective aviator's license as required and issued by the ~~civil aeronautics administration~~ federal aviation administration.

(2) The aviator's license, when required by this section, shall be kept in the personal possession of the pilot when the pilot is operating aircraft within this state, and shall be presented for inspection upon the request of any passenger, any authorized representative of the department, or any official manager or person in charge of any airport, seaplane base, heliport, vertiport, spaceport, landing field, or area in this state upon which the pilot lands.

~~(B)~~(E) Whoever violates this section shall be fined not more than five hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4561.60. As used in sections 4561.60 to 4561.64 of the Revised Code:

(A) "Surveillance data" means the data collected by an unmanned aerial vehicle during its flight, including images, videos, or other forms of observation recording.

(B) "Flight data" means the data pertaining to an unmanned aerial vehicle's flight from both the original plan for the flight and the actual flight that was taken, including the flight's duration, path, and mission objectives.

(C) "Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.

(D) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(E) "Unmanned aerial vehicle" and "unmanned aerial vehicle system" have the same meanings as in section 4561.50 of the Revised Code.

Sec. 4561.61. (A) If a peace officer would otherwise be required to obtain a search warrant to physically enter a house or a place in person to conduct a search, the peace officer or applicable law enforcement agency shall obtain a search warrant to do either of the following to collect surveillance data concerning the house or place in lieu of the in-person search:

(1) Enter the interior of the house or place through the use of an unmanned aerial vehicle system;

(2) Observe the interior of the house or place through the use of an unmanned aerial vehicle system.

(B)(1) Except as provided in division (B)(2) of this section, surveillance data, and any information obtained through that data, is not admissible in a criminal proceeding if it was gathered under circumstances that require a search warrant under division (A) of this section and a search warrant was not obtained by either the peace officer or the law enforcement agency.

(2) Surveillance data, and any information obtained through that data, that was gathered under the circumstances specified in section 4561.62 of the Revised Code may be admitted in a criminal proceeding without a peace officer or law enforcement agency obtaining a search warrant.

Sec. 4561.62. A law enforcement agency may use an unmanned aerial vehicle for surveillance without a search warrant as follows:

(A) To patrol within fifty miles of a national border for purposes of policing that border to prevent or deter the illegal entry of any individual, illegal substance, or contraband;

(B) When exigent circumstances exist, including to photograph and record evidence that is at imminent risk of destruction;

(C) Before, during, or immediately after an environmental or weather-related catastrophe to allow the agency to better preserve public safety, to protect property, to survey environmental damage in order to determine if a state of emergency should be declared, or to conduct surveillance for the assessment and evaluation of damage, erosion, flood, or contamination;

(D) To examine the scene of a vehicle accident, monitor traffic congestion, or conduct other forms of traffic law enforcement under Chapter 4511. or 4513. of the Revised Code or an equivalent municipal ordinance that does not require a peace officer to obtain a search warrant in advance of conducting such enforcement;

(E) To photograph and record evidence at a crime scene;

(F) To operate in navigable airspace, in a physically nonintrusive manner, in order to observe what is otherwise visible to the naked eye;

(G) To collect information from a public area if there is a reasonable suspicion of criminal activity in that area;

(H) To conduct a threat assessment prior to a large or populous event where law enforcement anticipates general public safety being a risk factor;

(I) For research, education, training, testing, or development efforts related to unmanned aerial vehicles or unmanned aerial vehicle systems, their technologies, and their potential applications, undertaken by or in conjunction with a school, an institution of higher education, or a public or private collaborator.

Sec. 4561.63. (A) A law enforcement agency shall not use, authorize the use of, or issue a permit for the use of, an unmanned aerial vehicle armed with any lethal weapon.

(B) A law enforcement agency shall not authorize the use of or issue a permit for the use of an unmanned aerial vehicle for the surveillance of one private individual by another private individual unless the agency obtains one of the following:

(1) The express, informed consent of the individual being surveilled by the unmanned aerial vehicle;

(2) The express, informed consent of the owner of the real property on which the individual being surveilled by the unmanned aerial vehicle is present.

Sec. 4561.64. (A) A law enforcement agency shall do both of the following relative to its use of unmanned aerial vehicles:

(1) Ensure that the agency and any applicable peace officer employed by the agency documents all flight data for each surveillance flight of an unmanned aerial vehicle taken by or on

behalf of the agency:

(2) Verify that the flight data for each surveillance flight is accurate and complete.

(B) A law enforcement agency shall retain any surveillance data or flight data that is relevant to an ongoing investigation, trial, or litigation until it is determined that such data is no longer necessary for that purpose.

(C)(1) Except as provided by division (C)(2) of this section, a person accused of a crime that includes evidence gathered through the use of an unmanned aerial vehicle may obtain, via the subpoena and discovery process available during court proceedings, information relating to that person acquired in the course of surveillance of that person by the unmanned aerial vehicle.

(2) The operational capabilities of the unmanned aerial vehicle and unmanned aerial vehicle system or other operational information strictly related to the technical conduct and physical security of the surveillance operation is not evidence subject to subpoena or discovery under division (C)(1) of this section.

(D) The flight and surveillance data required and retained in accordance with this section is a public record for purposes of section 149.43 of the Revised Code, unless the content of that flight data or surveillance data qualifies for an exemption under that section.

Sec. 5501.84. (A) As used in this section:

(1) "Foreign adversary" means a country listed on the registry published by the secretary of state under division (C) of this section.

(2) "Public entity" means the state and all political subdivisions of the state, including all boards, authorities, commissions, agencies, committees, councils, state colleges or universities, and other state entities created by the Ohio Constitution or the Revised Code.

(3) "Unmanned aerial vehicle system" has the same meaning as in section 4561.50 of the Revised Code.

(B)(1) Beginning on and after the effective date of this section, a public entity shall not purchase or otherwise acquire an unmanned aerial vehicle system that is manufactured or assembled by a foreign adversary.

(2) No state funds shall be used in connection with unmanned aerial vehicle systems manufactured or assembled by a foreign adversary that are purchased on or after the effective date of this section, including state funds that are awarded through a contract, grant, or cooperative agreement or that are otherwise made available.

(3) A public entity shall not operate an unmanned aerial vehicle system manufactured or assembled by a foreign adversary that is purchased on or after the effective date of this section.

(C) Division (B) of this section does not apply if either federal law or federal regulations allow for the continued purchase and operation of an unmanned aerial vehicle system or an unmanned aerial vehicle system's component parts that are manufactured or assembled by a foreign adversary.

(D)(1) The secretary of state shall compile and update at least one time every six months a

registry of foreign adversaries and other persons that, based on the best information available to the secretary of state, constitute a threat to the agricultural production, critical infrastructure, security, or military defense of this state or the United States.

(2) The registry shall be published on the secretary of state's web site.

(3) The secretary of state shall consult all of the following in compiling the registry:

(a) The list of persons determined by the secretary of commerce of the United States to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or the security and safety of United States persons and, therefore, to constitute foreign adversaries for the purposes of Executive Order 13873, issued by the president of the United States on May 15, 2019;

(b) The terrorist exclusion list compiled by the secretary of state of the United States in consultation with the attorney general of the United States under 8 U.S.C. 1182;

(c) The list of countries determined by the secretary of state of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d);

(d) The list of individuals and entities designated by or in accordance with Executive Order 13224, issued by the president of the United States on September 23, 2001, or Executive Order 13268, issued by the president of the United States on July 2, 2002.

(4) The secretary of state shall not include on the registry any person that does not appear on at least one of the federal lists described in division (D)(3) of this section.

SECTION 2. That existing sections 4561.01 and 4561.11 of the Revised Code are hereby repealed.

SECTION 3. Section 5501.84 of the Revised Code, as enacted by this act, takes effect forty-eight months after the effective date of this section.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 251

136th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_