

TO: House Aviation & Aerospace Committee

FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio

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RE: House Bill 149 – Proponent Testimony

To Chairman Holmes, Vice Chair Willis, Ranking Member Baker, and members of the House Aviation & Aerospace Committee, thank you for this opportunity to provide proponent testimony on House Bill 149.



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As this committee knows, law enforcement in and around Ohio are increasingly using unmanned aircraft, or drones, to assist with their duties and investigations. This is true for a variety of other surveillance technology, all with serious and troubling implications for the privacy rights of your constituents. The common thread with all these devices and technologies is they are purchased, adopted, and used by government with virtually no statutory regulation or restriction at the state or local levels.

Surveillance drones have many capabilities that have grown over time and keep growing. Like all technologies of its type, drone prices will decrease over time. More efficient surveillance, at a lower cost, leads to increased use.

The ACLU of Ohio will never be comfortable with, and certainly never advocates for, this ever-growing system of mass surveillance. But, if government entities, such as law enforcement, are absolutely intent on using drones we believe common sense regulation is much-needed and possible.

House Bill 149 contains several welcome provisions we believe are necessary with any drone regulation bill.

- A warrant requirement for law enforcement to surveil and collect data (Lines #37-53). This requirement includes specific information to be revealed about how the drone will be operated, for what purposes, and how data will be collected and used. (Lines #54-89);
- An explicit prohibition against “surveillance of individuals who are lawfully exercising their constitutional rights.” (Lines #127-132)
- The banning of lethal weaponry on, or operated by, drones. (Lines #114-116)

The ACLU of Ohio encourages this committee to view the above provisions as the bare minimum for any drone regulation bill and resist attempts, if any, to weaken them during the legislative process.

The ACLU of Ohio also believes HB 149 can be improved in at least the following ways:

The first is regulation regarding who has access to data collected by law enforcement use of drones and for what purposes. Can the data be shared with other local or state law enforcement and/or government entities in Ohio? If so, under what circumstances? How about state and local governments and law enforcement in other states? Or federal departments and agencies? If so, why? When can individual officers access this data, if they can?

The less unregulated and scattershot access is, and the less time this data is stored, the less potential for misuse and abuse. Plus, the less ability for government at all levels to build, perpetuate, and maintain a system to surveil any or all of us. At a minimum, we urge carefully considered guardrails on the topic of data access with the primary goal being the preservation of privacy and against the further establishment of a mass surveillance system.

Second, we recommend HB 149 apply to piloted aircraft as well as drones. What good is common sense regulation of drones, i.e. unpiloted aircraft, when this legislation can be entirely circumvented via the use of piloted aircraft? This is a valid concern as there are businesses that aggressively market themselves as providing aerial surveillance to governments and their law enforcement (and private entities, large events, etc.) using piloted aircraft.

Which leads directly to our third recommendation – expand HB 149 to prohibit governments and law enforcement from contracting with, obtaining data from, etc. unregulated private third parties that conduct surveillance and collect data via drones and/or piloted aircraft.

Like the current distinction in HB 149 between unpiloted and piloted aircraft, we fear a third-party loophole will be quickly exploited, rendering this bill much less effective and its intentions subverted.

Fourth, while we greatly appreciate the ban on lethal weaponry used by drones, we believe this ban should apply to all weaponry, devices, substances, and materials capable of causing bodily harm and injury. Robots that kill, maim, or harm make for entertaining science-fiction and apocalypse movies. But they have no place in real life, used by our government.

With House Bill 149, you have a solid drone regulation bill, albeit one that can and should be improved. I do hope the committee will consider the suggestions made today so HB 149 can be the best bill possible. The ACLU of Ohio otherwise urges your favorable consideration.