AN ACT concerning unmanned vehicles; relating to breach of privacy; use of images; search warrants; law enforcement; civil penalties and liability; amending K.S.A. 2013 Supp. 21-6101 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. Sections 1 through 9, and amendments thereto, shall be known as the Kansas unmanned vehicle act.

New Sec. 2. The following definitions shall apply to the Kansas unmanned vehicle act, unless the context clearly requires a different meaning:

(a) "Judicial officer" means a judge, magistrate or other person authorized to issue a search warrant pursuant to K.S.A. 22-2502, and amendments thereto.

(b) "Law enforcement agency" means any state, municipal or other public agency whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or any municipality. "Law enforcement agency" includes, but is not limited to, any state investigative agency, city police department, county sheriff's department, county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or any law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.

(c) "Law enforcement officer" means any person who is employed or contracted by a law enforcement agency and is empowered by the laws of this state to conduct investigations or to make arrests.

(d) "Municipality" means a city, county, township, fire district or any other political and taxing subdivision in this state.

(e) "Person" means any individual, partnership, association, joint stock company, trust or corporation.

(f) "Personal information" means any information that:

(1) Describes, locates or indexes anything about a person including, but not limited to, such person's social security number, driver's license number, agency-issued identification number, student identification number, real or personal property holdings derived from tax returns, education, financial transactions, medical history, ancestry, religion,
political ideology or criminal or employment record;
(2) affords a basis for inferring personal characteristics, such as finger
and voice prints, photographs or things done by or to such person; and the
record of such person's presence, registration or membership in an
organization or activity or admission to an institution; or
(3) describes, locates or indexes anything about a person including,
but not limited to, intellectual property, trade secrets or proprietary or
operational information.
(g) "Public unmanned vehicle system" means an unmanned vehicle
system operated by a law enforcement agency or at the direction of or
under the control of a law enforcement agency.
(h) "Sensing device" means a device capable of acquiring data or
information from its surroundings including, but not limited to, cameras
using visible, ultraviolet or infrared frequencies, microphones, thermal
detectors, chemical detectors, radiation gauges and wireless receivers in
any frequency.
(i) "State agency" means any state office or officer, department,
board, commission, institution, bureau or any agency, division or unit
within any office, department, board, commission or other state authority.
(j) "Unmanned vehicle" means a vehicle, including, but not limited
to, an aircraft, that is operated without the possibility of human
intervention from within or on such vehicle.
(k) "Unmanned vehicle system" means an unmanned vehicle and
associated elements, including, but not limited to, communication links,
sensing devices and components that control such unmanned vehicle that
are required for the operator in command to operate safely and efficiently.

New Sec. 3. (a) (1) Except as otherwise specifically provided in the
Kansas unmanned vehicle act, it shall be unlawful to: (A) Operate a public
unmanned vehicle system; or (B) collect or disclose personal information
about any person acquired through the operation of any unmanned vehicle
system.
(2) It shall not be unlawful to operate an unmanned vehicle system on
the land of another, or in the air space above such land, if the landowner or
person in possession of such land has given permission for such operation.
(b) All operations of an unmanned vehicle system or disclosure of
personal information about any person acquired through the operation of
an unmanned vehicle system shall be conducted in such a way as to
minimize the collection and disclosure of personal information obtained in
violation of the Kansas unmanned vehicle act.
(c) (1) Except no unmanned vehicle shall be equipped with or carry
any weapon, device, instrument, material, or substance that is used for, or
is readily capable of, causing death or serious bodily injury.
(2) The provisions of this subsection shall not apply to any
agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, if an unmanned vehicle system is equipped with such chemicals for use on land, or in the air space above such land, with the permission of the owner or person in possession of such land.

(d) Violation of any provision of the Kansas unmanned vehicle act or subsection (a)(8) or (a)(9) of K.S.A. 2013 Supp. 21-6101, and amendments thereto, shall be punishable by a civil penalty of not more than $10,000 for each violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

New Sec. 4. (a) No state agency shall procure a public unmanned vehicle system without the express approval of the legislature.

(b) No municipal law enforcement agency shall procure a public unmanned vehicle system without the approval of the governing body of such municipality.

(1) The governing body of any municipality permitting the use of public unmanned vehicle systems shall publish and make available to the public any written policies and procedures for the use of public unmanned vehicle systems by each law enforcement agency of such municipality.

(2) The governing body of any municipality permitting the use of public unmanned vehicle systems shall require each law enforcement agency operating a public unmanned vehicle system to maintain records of each use of a public unmanned vehicle system, including the date, time, location, target of data collection, type of data collected, reason for such use and the identity of the operator of such public unmanned vehicle system and the person who authorized such use.

(3) (A) The governing body of any municipality permitting the use of a public unmanned vehicle system shall conduct an annual comprehensive audit on the operation of each such public unmanned vehicle system, including the law enforcement log book, corresponding emergency telephone calls, warrants and other documentation of the reason for such use. Such audit shall be publicly available and shall include:

(i) The number of crime investigations aided by the use and how the use was helpful to the investigation;

(ii) the frequency and type of data collected for individuals or areas other than targets;

(iii) the total cost of the public unmanned vehicle system; and

(iv) any additional information and analysis the governing body deems useful.

(B) Upon completion of the audit, the governing body shall review the use of public unmanned vehicle systems and consider both the benefits and risks to privacy before authorizing the continued operation of a public unmanned vehicle system in such municipality.
New Sec. 5.  (a) Except as provided in subsection (b), a public unmanned vehicle system shall only be operated pursuant to a search warrant issued by a court of competent jurisdiction as provided in K.S.A. 22-2502 through 22-2505, and amendments thereto, or as otherwise provided in this section.

(b) (1) A law enforcement officer may operate a public unmanned vehicle system and disclose personal information from such operation if:

(A) Such officer reasonably determines that an emergency situation exists that involves immediate danger of death or serious physical injury to any person;

(B) such emergency situation requires operation of a public unmanned vehicle system before a warrant authorizing such interception can, with due diligence, be obtained;

(C) there are grounds upon which such a warrant could be entered to authorize such operation; and

(D) an application for a warrant authorizing such operation is made within 48 hours after the operation begins.

(2) In the absence of a warrant, an operation of a public unmanned vehicle system pursuant to subsection (b) shall immediately terminate when the personal information sought is obtained or when the application for the warrant is denied, whichever is earlier. In the event such application is denied, the personal information obtained from the operation shall be treated as having been obtained in violation of the Kansas unmanned vehicle act.

(c) Whenever any personal information from a public unmanned vehicle system has been acquired in violation of the Kansas unmanned vehicle act, any part of such personal information and evidence derived therefrom shall be inadmissible in any trial, hearing or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of the state or a political subdivision thereof. Such personal information shall not be disclosed for any purpose and shall be deleted as soon as possible, and in no event later than 24 hours after the collection of such information.

New Sec. 6. By November 1 of each year, any judicial officer who has received an application for a search warrant to operate a public unmanned vehicle system during that year shall report to the chief justice of the supreme court the following information for each such application:

(a) The fact that a warrant was applied for;

(b) the fact that the warrant was granted as applied for, was modified, or was denied;

(c) the period of time for the use of such public unmanned vehicle system authorized by such warrant;

(d) the offense or purpose specified in the petition and the probable
cause giving rise to such warrant; and
(e) the identity of the applying law enforcement officer, the agency
making the application and the judicial officer issuing such warrant.

New Sec. 7. By November 1 of each year, any law enforcement
agency who applied for a search warrant for the use of a public unmanned
vehicle system shall report to the Kansas bureau of investigation the
following information for each such application:
(a) The fact that a warrant was applied for;
(b) the fact that the warrant was granted as applied for, was modified
or was denied;
(c) the period of time for the use of such public unmanned vehicle
system authorized by such warrant;
(d) the offense or purpose specified in the petition and the probable
cause giving rise to such warrant;
(e) the identity of the applying law enforcement officer, the agency
making the application and the judicial officer authorizing the petition;
(f) the general description of the information gathered from the use of
the public unmanned vehicle system under the search warrant, including:
(1) The approximate nature and frequency of incriminating conduct
gathered;
(2) the approximate number of persons upon whom information was
gathered; and
(3) the approximate nature, amount and cost of the manpower and
other resources used in the collection;
(g) the number of arrests resulting from information gathered under
such search warrant or extension and the offenses for which arrests were
made;
(h) the number of trials resulting from such information;
(i) the number of motions to suppress made with respect to such
information and the number of such motions granted or denied; and
(j) the number of convictions resulting from such information, the
offenses for which the convictions were obtained and a general assessment
of the importance of such information in securing such convictions.

New Sec. 8. By January 1 of each year, the chief justice of the
supreme court and the director of the Kansas bureau of investigation shall
transmit to the legislature a full and complete report concerning the
number of applications for search warrants authorizing the operation of a
public unmanned vehicle system or disclosure of information from the
operation of a public unmanned vehicle system pursuant to the Kansas
unmanned vehicle act. Such report shall include a summary and analysis
of all of the data required to be filed with the supreme court pursuant to
section 6, and amendments thereto, and the Kansas bureau of investigation
pursuant to section 7, and amendments thereto.
New Sec. 9. Any person aggrieved by a person whose actions violate the provisions of the Kansas unmanned vehicle act or K.S.A. 2013 Supp. 21-6101, and amendments thereto, shall have a civil cause of action against such person and shall be entitled to recover:

(a) Actual damages;
(b) punitive damages;
(c) equitable relief; and
(d) reasonable attorney fees.

Sec. 10. K.S.A. 2013 Supp. 21-6101 is hereby amended to read as follows: 21-6101. (a) Breach of privacy is knowingly and without lawful authority:

(1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;
(2) divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;
(3) entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;
(4) installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein;
(5) installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication;
(6) installing or using a concealed camcorder, motion picture camera or photographic camera of any type, to secretly videotape, film, photograph or record by electronic or other means, another, identifiable person under or through the clothing being worn by that other person or another, identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy; or
(7) disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of subsection (a)(6); or
(8) except as authorized by the Kansas unmanned vehicle act, using an unmanned vehicle system to collect any personal information about a
SB 409

person while such person is in a private place; or

(9) disseminating, disclosing or permitting the dissemination or
disclosure of personal information about a person collected pursuant to
subsection (a)(8).

(b) Breach of privacy as defined in:

(1) Subsection (a)(1) through (a)(5) is a class A nonperson
misdemeanor;

(2) subsection (a)(6) is a severity level 8, person felony; and

(3) subsection (a)(7) is a severity level 5, person felony; and

(4) subsection (a)(8) or (a)(9) is a severity level 8, nonperson felony.

(c) Subsection (a)(1) shall not apply to messages overheard through a
regularly installed instrument on a telephone party line or on an extension.

(d) The provisions of this section shall not apply to an operator of a
switchboard, or any officer, employee or agent of any public utility
providing telephone communications service, whose facilities are used in
the transmission of a communication, to intercept, disclose or use that
communication in the normal course of employment while engaged in any
activity which is incident to the rendition of public utility service or to the
protection of the rights of property of such public utility.

(e) As used in this section:

(1) "Personal information" has the same meaning as defined in
section 2, and amendments thereto;

(2) "private place" means a place where one may reasonably expect
to be safe from uninvited intrusion or surveillance; and

(3) "unmanned vehicle system" has the same meaning as defined in
section 2, and amendments thereto, and includes a public unmanned
vehicle system as defined in section 2, and amendments thereto.

Sec. 11. K.S.A. 2013 Supp. 21-6101 is hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its
publication in the statute book.