

114TH CONGRESS  
1ST SESSION

# H. R. 1385

To provide for a legal framework for the operation of public unmanned aircraft systems, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2015

Mr. POE of Texas (for himself, Ms. LOFGREN, Mr. CRAWFORD, Mr. JEFFRIES, Mr. HENSARLING, Mr. SALMON, Mrs. LUMMIS, and Mr. PEARCE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide for a legal framework for the operation of public unmanned aircraft systems, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preserving American  
5 Privacy Act of 2015”.

6 **SEC. 2. USE OF UNMANNED AIRCRAFT SYSTEMS.**

7 (a) IN GENERAL.—Part II of title 18, United States  
8 Code, is amended by inserting after chapter 205 the fol-  
9 lowing:

1       **“CHAPTER 205A—USE OF UNMANNED**  
2                                   **AIRCRAFT SYSTEMS**

“3119a. Definitions.

“3119b. Use of public unmanned aircraft systems.

“3119c. Use of covered information as evidence.

“3119d. Administrative discipline.

“3119e. Reporting.

“3119f. Private use of unmanned aircraft systems.

“3119g. Application with other Federal laws.

“3119h. Ban on weaponization.

“3119i. Rule of construction regarding State laws on unmanned aircraft system usage.

3   **“§ 3119a. Definitions**

4        “In this Act:

5               “(1) COURT OF COMPETENT JURISDICTION.—

6        The term ‘court of competent jurisdiction’ in-  
7        cludes—

8               “(A) any district court of the United  
9               States (including a magistrate judge of such a  
10              court) or any United States court of appeals  
11              that—

12              “(i) has jurisdiction over the offense  
13              being investigated;

14              “(ii) is in a district in which the pub-  
15              lic unmanned aircraft system is located or  
16              where the public unmanned aircraft system  
17              is being or sought to be operated; or

18              “(iii) is acting on a request for foreign  
19              assistance pursuant to section 3512 of title  
20              18, United States Code; or

1           “(B) a court of general criminal jurisdic-  
2           tion of a State authorized by the law of that  
3           State to issue search warrants.

4           “(2) COVERED INFORMATION.—The term ‘cov-  
5           ered information’ means—

6                   “(A) information that is reasonably likely  
7                   to enable identification of an individual; or

8                   “(B) information about an individual’s  
9                   property that is not in plain view.

10           “(3) GOVERNMENTAL ENTITY.—The term ‘gov-  
11           ernmental entity’ means a department or agency of  
12           the United States or any State or political subdivi-  
13           sion thereof.

14           “(4) PUBLIC UNMANNED AIRCRAFT SYSTEM.—  
15           The term ‘public unmanned aircraft system’ has the  
16           meaning given such term in section 331 of the FAA  
17           Modernization and Reform Act of 2012 (49 U.S.C.  
18           40101 note).

19           “(5) STATE.—The term ‘State’ means any  
20           State of the United States, the District of Columbia,  
21           the Commonwealth of Puerto Rico, and any territory  
22           or possession of the United States.

23           “(6) UNMANNED AIRCRAFT SYSTEM.—The term  
24           ‘unmanned aircraft system’ has the meaning given

1 such term in section 331 of the FAA Modernization  
2 and Reform Act of 2012 (49 U.S.C. 40101 note).

3 **“§ 3119b. Use of public unmanned aircraft systems**

4 “(a) APPLICATION.—A governmental entity shall op-  
5 erate any public unmanned aircraft system only in accord-  
6 ance with this Act.

7 “(b) MINIMIZATION.—In operating a public un-  
8 manned aircraft system or disclosing any covered informa-  
9 tion collected by such operation, a governmental entity  
10 shall minimize, to the maximum extent practicable, the  
11 collection or disclosure of such covered information.

12 “(c) DATA COLLECTION STATEMENT REQUIRED.—

13 “(1) Concurrent with an application for a cer-  
14 tificate or license to operate a public unmanned air-  
15 craft system in the national airspace, a govern-  
16 mental entity shall submit to the Attorney General  
17 a data collection statement, in such form and man-  
18 ner as the Attorney General may by rule require,  
19 that describes—

20 “(A) the purpose for which the public un-  
21 manned aircraft system will be used;

22 “(B) whether the public unmanned aircraft  
23 system is capable of collecting covered informa-  
24 tion;

1           “(C) the length of time for which the col-  
2           lected covered information will be retained;

3           “(D) an individual point of contact for cit-  
4           izen feedback;

5           “(E) the particular unit of the govern-  
6           mental entity responsible for safe and appro-  
7           priate operation of the public unmanned air-  
8           craft system;

9           “(F) the rank and title of the individual  
10          who may authorize the operation of the public  
11          unmanned aircraft system;

12          “(G) the applicable data minimization poli-  
13          cies barring the collection of covered informa-  
14          tion unrelated to the investigation of crime and  
15          requiring the destruction of covered information  
16          that is no longer relevant to the investigation of  
17          a crime; and

18          “(H) the applicable audit and oversight  
19          procedures that ensure governmental entities  
20          and those acting on their behalf use the un-  
21          manned aircraft system only as authorized,  
22          within the scope of the data collection state-  
23          ment, and in compliance with data minimization  
24          policies.

1           “(2) The applicant is responsible for submitting  
2           to the Attorney General updates to the data collec-  
3           tion statement.

4           “(3) The Attorney General may request that  
5           the Secretary of Transportation revoke the certifi-  
6           cate or license to operate the public unmanned air-  
7           craft system in the national airspace if the opera-  
8           tor’s activity contravenes the data collection state-  
9           ment disclosures required in paragraph (1).

10           “(4) Not later than 6 months after the date of  
11           enactment of this Act, the Attorney General shall  
12           issue regulations to establish a database, that is  
13           publicly accessible via electronic means, indexing the  
14           certificates or licenses and the associated data collec-  
15           tion statements described in this subsection for pub-  
16           lic unmanned aircraft systems operated within the  
17           national airspace.

18   **“§ 3119c. Use of covered information as evidence**

19           “(a) IN GENERAL.—Covered information that a gov-  
20           ernmental entity collects by operation of a public un-  
21           manned aircraft system, and evidence derived from such  
22           covered information, may not be received as evidence  
23           against an individual in any trial, hearing, or other pro-  
24           ceeding in or before any court, grand jury, department,  
25           officer, agency, regulatory body, legislative committee, or

1 other authority of the United States, a State, or a political  
2 subdivision thereof, unless such operation and collection,  
3 or disclosure of such covered information is in accordance  
4 with this Act.

5 “(b) PROHIBITION ON USE FOR LAW ENFORCEMENT  
6 PURPOSES.—Except as provided in subsection (c), a gov-  
7 ernmental entity may not—

8 “(1) operate a public unmanned aircraft system  
9 for a law enforcement purpose to collect covered in-  
10 formation; or

11 “(2) disclose covered information so collected.

12 “(c) EXCEPTIONS.—A governmental entity may oper-  
13 ate a public unmanned aircraft system and may collect  
14 or disclose covered information acquired by such operation  
15 for a law enforcement purpose only if such operation, col-  
16 lection, or disclosure is in accordance with any of the fol-  
17 lowing:

18 “(1) WARRANT.—The operation, collection, or  
19 disclosure is—

20 “(A) pursuant to a warrant issued by a  
21 court of competent jurisdiction; and

22 “(B) not later than 10 days after the exe-  
23 cution of the warrant, the governmental entity  
24 that sought the warrant serves a copy of the  
25 warrant on each person on whom covered infor-

1           mation was collected, except, if providing such  
2           notice would seriously jeopardize an ongoing  
3           criminal or national security investigation, the  
4           court may delay such notice on request of the  
5           governmental entity.

6           “(2) ORDER.—The operation, collection, or dis-  
7           closure is pursuant to an order that may be lawfully  
8           issued by a court of competent jurisdiction—

9                   “(A) based on the allegation by the govern-  
10                  mental entity requesting such order of specific  
11                  and articulable facts showing a reasonable sus-  
12                  picion of criminal activity and a reasonable  
13                  probability that the operation of a public un-  
14                  manned aircraft system will provide evidence of  
15                  such criminal activity;

16                   “(B) authorizing the operation of a public  
17                  unmanned aircraft system only in a stipulated  
18                  public area for a period of not more than 48  
19                  hours;

20                   “(C) which may be renewed at the court’s  
21                  discretion for a total period of operation of not  
22                  longer than 30 days; and

23                   “(D) notice is provided—

24                           “(i) not later than 10 days after the  
25                           termination of which, by serving a copy on



1 each person on whom covered information  
2 was collected; or

3 “(ii) not less than 48 hours prior to  
4 such operation, to the public in the stipu-  
5 lated public area, by prominent placement  
6 of a notification—

7 “(I) in a major publication (with  
8 circulation of more than 1,000 in that  
9 area);

10 “(II) on a public Internet Web  
11 site of the governmental entity, for  
12 the duration of the operation; or

13 “(III) on public signage in the  
14 area, for the duration of the oper-  
15 ation.

16 “(3) U.S. LAND BORDER.—The operation is  
17 within a distance of 25 miles from any external land  
18 boundary of the United States and is for the pur-  
19 pose of patrolling or securing the border.

20 “(4) CONSENT.—The covered information that  
21 is collected or disclosed pertains to an individual who  
22 provides prior written consent to such collection or  
23 disclosure.

24 “(5) EMERGENCY.—The operation is—

1           “(A) an investigative or law enforcement  
2 officer reasonably believes that an emergency  
3 situation exists that—

4                   “(i) involves—

5                           “(I) immediate danger of death  
6 or serious physical injury to any per-  
7 son;

8                           “(II) conspiratorial activities  
9 threatening the national security in-  
10 terest; or

11                           “(III) conspiratorial activities  
12 characteristic of organized crime; and

13                   “(ii) requires such operation, collec-  
14 tion, or disclosure before a warrant or  
15 order authorizing such operation, collec-  
16 tion, or disclosure may, with due diligence,  
17 be obtained;

18           “(B) that officer applies for such a war-  
19 rant or order not later than 48 hours after such  
20 operation begins; and

21           “(C) that operation is terminated imme-  
22 diately on the earlier of when—

23                   “(i) the information necessary to re-  
24 solve the emergency situation is collected;  
25 or

1                   “(ii) the court denies the application  
2                   for the warrant or order.

3                   “(6) EFFECT OF FAILURE TO SECURE WAR-  
4                   RANT OR ORDER.—If a warrant or order described  
5                   in paragraph (5) is denied, then for purposes of sub-  
6                   section (b), an operation, collection, or disclosure  
7                   under that paragraph shall not be considered to be  
8                   an operation, collection, or disclosure authorized  
9                   under this subsection. Any covered information so  
10                  collected shall be removed from all databases of the  
11                  governmental entity.

12                  “§ 3119d. **Administrative discipline**

13                  “(a) ADMINISTRATIVE DISCIPLINE.—If a court or  
14                  appropriate department or agency determines that a gov-  
15                  ernmental entity has violated any provision of this Act,  
16                  and the court or appropriate department or agency finds  
17                  that the circumstances surrounding the violation raise se-  
18                  rious questions about whether or not an officer or em-  
19                  ployee of the United States acted intentionally with re-  
20                  spect to the violation, the department or agency shall,  
21                  upon receipt of a true and correct copy of a decision or  
22                  findings of the court or appropriate department or agency,  
23                  promptly initiate a proceeding to determine whether dis-  
24                  ciplinary action against the officer or employee is war-  
25                  ranted. If the head of the department or agency involved

1 determines that disciplinary action is not warranted, such  
2 head shall notify the Inspector General with jurisdiction  
3 over the department or agency concerned and shall provide  
4 the Inspector General with the reasons for such deter-  
5 mination.

6 “(b) IMPROPER DISCLOSURE IS VIOLATION.—Any  
7 willful disclosure or use by an investigative or law enforce-  
8 ment officer or governmental entity of information beyond  
9 the extent permitted by this Act is a violation of this Act  
10 for purposes of this section.

11 **“§ 3119e. Reporting**

12 “(a) In January of each year, any Federal judge who  
13 has issued a warrant or order (or an extension thereof)  
14 under section 3 on operation of public unmanned aircraft  
15 systems that expired during the preceding year, or who  
16 has denied approval of such a warrant or order during  
17 that year, shall report to the Administrative Office of the  
18 United States Courts—

19 “(1) the fact that an order or extension was ap-  
20 plied for;

21 “(2) the kind of order or extension applied for;

22 “(3) the fact that the order or extension was  
23 granted as applied for, was modified, or was denied;

1           “(4) the period of collections authorized by the  
2 order, and the number and duration of any exten-  
3 sions of the order;

4           “(5) the offense specified in the order or appli-  
5 cation, or extension of an order; and

6           “(6) the identity of the applying agency making  
7 the application and the rank and title of the person  
8 authorizing the application.

9           “(b) In March of each year the Attorney General, an  
10 Assistant Attorney General specially designated by the At-  
11 torney General, or the principal prosecuting attorney of  
12 a State, or the principal prosecuting attorney for any po-  
13 litical subdivision of a State, shall report to the Adminis-  
14 trative Office of the United States Courts—

15           “(1) the information required by paragraphs  
16 (1) through (6) of subsection (a) with respect to  
17 each application for an order or extension made dur-  
18 ing the preceding calendar year;

19           “(2) a general description of all the information  
20 collected under such order or extension, including—

21           “(A) the approximate nature and fre-  
22 quency of incriminating conduct collected;

23           “(B) the approximate number of persons  
24 whose covered information was collected; and

1           “(C) the approximate nature, amount, and  
2           cost of the manpower and other resources used  
3           in the collection;

4           “(3) the number of arrests resulting from cov-  
5           ered information collected from such order or exten-  
6           sion, and the offenses for which arrests were made;

7           “(4) the number of trials resulting from such  
8           covered information;

9           “(5) the number of motions to suppress made  
10          with respect to such covered information, and the  
11          number granted or denied;

12          “(6) the number of convictions resulting from  
13          such covered information, and the offenses for which  
14          the convictions were obtained, and a general assess-  
15          ment of the importance of the information collected;  
16          and

17          “(7) the information required by paragraphs  
18          (2) through (6) of this subsection with respect to or-  
19          ders or extensions obtained in a preceding calendar  
20          year.

21          “(c) In June of each year the Director of the Admin-  
22          istrative Office of the United States Courts shall transmit  
23          to the Congress a full and complete report that includes  
24          a summary and analysis of all information received under  
25          subsection (a) and (b) during the preceding calendar year.

1 The Director of the Administrative Office of the United  
2 States Courts is authorized to issue regulations regarding  
3 the content and form of the reports required to be filed  
4 by subsections (a) and (b) of this section.

5 **“§ 3119f. Private use of unmanned aircraft systems**

6 “It shall be unlawful to intentionally operate a pri-  
7 vate unmanned aircraft system to capture, in a manner  
8 that is highly offensive to a reasonable person, any type  
9 of visual image, sound recording, or other physical impres-  
10 sion of a individual engaging in a personal or familial ac-  
11 tivity under circumstances in which the individual had a  
12 reasonable expectation of privacy, through the use of a vis-  
13 ual or auditory enhancing device, regardless of whether  
14 there is a physical trespass, if this image, sound recording,  
15 or other physical impression could not have been achieved  
16 without a trespass unless the visual or auditory enhancing  
17 device was used.

18 **“§ 3119g. Application with other Federal laws**

19 “Nothing in this Act may be construed to modify,  
20 limit, or supersede the operation of chapter 119 of title  
21 18, United States Code.

22 **“§ 3119h. Ban on weaponization**

23 “It shall be unlawful for any investigative or law en-  
24 forcement officer or private individual to operate an un-  
25 manned aircraft system that is armed with a firearm (as

1 such term is defined in section 921 of title 18, United  
2 States Code) within the airspace of the United States.

3 **“§ 3119i. Rule of construction regarding State laws on**  
4 **unmanned aircraft system usage**

5 “Nothing in this Act shall be construed to preempt  
6 any State law regarding the use of unmanned aircraft sys-  
7 tems exclusively within the borders of that State.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters  
9 for part II of title 18, United States Code, is amended  
10 by inserting after the item relating to chapter 205 the fol-  
11 lowing:

“205A. Use of unmanned aircraft systems ..... 3119a”.

