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**H. B. 2732**

(By Delegate J. Nelson, Kump, Shott, Manypenny,  
Arvon, R. Smith, Butler, Evans, Cadle,  
Ambler and Cooper)

[Introduced February 26, 2013; referred to the  
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-  
3, §1-7-4, §1-7-5 and §1-7-6, all relating to creating the  
Freedom From Unwarranted Surveillance Act; prohibiting the use  
of drones; providing exceptions; providing remedies;  
prohibiting the use of evidence; and defining terms.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §1-7-1, §1-7-2, §1-7-3,  
§1-7-4, §1-7-5 and §1-7-6, all to read as follows:

**ARTICLE 7. FREEDOM FROM UNWARRANTED SURVEILLANCE ACT.**

**§1-7-1. Short title.**

This article may be cited as the "Freedom from Unwarranted  
Surveillance Act."

**§1-7-2. Definitions.**

1 For purposes of this article, the following definitions  
2 apply:

3 "Drone" means a powered, aerial vehicle that:

4 (1) Does not carry a human operator;

5 (2) Uses aerodynamic forces to provide vehicle lift;

6 (3) Can fly autonomously or piloted remotely;

7 (4) Can be expendable or recoverable; and

8 (5) Can carry a lethal or nonlethal payload.

9 "Law-enforcement agency" means a lawfully established federal,  
10 state or local public agency that is responsible for the prevention  
11 and detection of crime and the enforcement of penal, traffic,  
12 regulatory, game or controlled substance laws.

13 **§1-7-3. Prohibited use of drones.**

14 (a) A law-enforcement agency may not use a drone to gather  
15 evidence or other information.

16 (b) No drone operated within the State of West Virginia may  
17 carry a lethal payload.

18 **§1-7-4. Exceptions.**

19 This article does not prohibit the use of a drone to counter  
20 a high risk of a terrorist attack by a specific individual or  
21 organization if the United States Secretary of Homeland Security  
22 determines that credible intelligence indicates that there is such  
23 a risk, and where a search warrant was obtained from the  
24 appropriate state agency prior to any use of a drone for the

1 purposes identified in subsection (a), section three of this  
2 article.

3 **§1-7-5. Remedies.**

4 An aggrieved party may initiate a civil action against a law-  
5 enforcement agency to obtain all appropriate relief in order to  
6 prevent or remedy a violation of this article.

7 **§1-7-6. Prohibition on use of evidence.**

8 Evidence obtained or collected in violation of this article is  
9 not admissible as evidence in a criminal prosecution in any court  
10 of law in this state.

NOTE: The purpose of the bill is to create the Freedom From Unwarranted Surveillance Act. The bill prohibits the use of drones and provides exceptions. The bill provides remedies. The bill prohibits the use of evidence in criminal proceedings. The bill defines terms.

This article is new; therefore, it has been completely underscored.