

115TH CONGRESS
2D SESSION

H. R. 6617

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

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2018

Mr. POE of Texas (for himself and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on the Judiciary

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 2018”.

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 subsections (a) and (b) during the preceding calendar

1 year. The Director of the Administrative Office of the
2 United States Courts is authorized to issue regulations re-
3 garding the content and form of the reports required to
4 be filed 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”.

