

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0054.01 Richard Sweetman x4333

HOUSE BILL 15-1115

HOUSE SPONSORSHIP

Lawrence,

SENATE SPONSORSHIP

Newell and Lundberg,

House Committees
Judiciary

Senate Committees
Local Government

A BILL FOR AN ACT

101 **CONCERNING PRIVACY IN REGARD TO EMERGING TECHNOLOGIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

A person commits the crime of first degree criminal trespass if he or she is not a peace officer or other agent of a state or local government agency acting in his or her official capacity and he or she knowingly and intentionally uses an unmanned aerial vehicle (UAV) to observe, record, transmit, or capture images of another person when the other person has a reasonable expectation of privacy.

A person commits harassment if he or she is not a peace officer or other agent of a state or local government agency acting in his or her

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 21, 2015

HOUSE
Amended 2nd Reading
April 17, 2015

official capacity and, with intent to harass, annoy, or alarm another person, he or she uses a UAV to track a person's movements in or about a public place without the person's authorization.

The bill amends existing law concerning the retention of passive surveillance records by government agencies to contemplate the retention of records that are obtained through the use of UAVs.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 13-21-128 as
3 follows:

4 **13-21-128. Civil damages for invasion of privacy -**
5 **unauthorized recordings.** (1) EXCEPT AS DESCRIBED IN SUBSECTION (2)
6 OF THIS SECTION, A PERSON WHO SUFFERS DAMAGES AS A RESULT OF
7 ANOTHER PERSON KNOWINGLY AND INTENTIONALLY CAPTURING, WITHOUT
8 THE PERSON'S CONSENT, A PHOTOGRAPH, SOUND RECORDING, OR OTHER
9 PHYSICAL IMPRESSION OR DIGITAL IMAGE OF THE PERSON UNDER
10 CIRCUMSTANCES IN WHICH THE PERSON HAD A REASONABLE EXPECTATION
11 OF PRIVACY HAS A PRIVATE CIVIL RIGHT OF ACTION AGAINST THE
12 PERPETRATOR, REGARDLESS OF WHETHER THE PERPETRATOR IS CONVICTED
13 OF ANY CRIMINAL OFFENSE.

14 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY IF THE
15 PERSON WHO CAPTURES THE PHOTOGRAPH, SOUND RECORDING, OR OTHER
16 PHYSICAL IMPRESSION OR DIGITAL IMAGE WAS A PEACE OFFICER OR AN
17 EMPLOYEE OR OTHER AGENT OF A FEDERAL, STATE, OR LOCAL
18 GOVERNMENT AGENCY ACTING IN HIS OR HER OFFICIAL CAPACITY,
19 CONSISTENT WITH THE FOURTH AMENDMENT TO THE UNITED STATES
20 CONSTITUTION.

21 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT REQUIRES
22 OTHERWISE, "DAMAGES" DO NOT INCLUDE THE VALUE OR POTENTIAL

1 VALUE OF A CIVIL JUDGMENT WHEN:

2 (a) A PERSON CAPTURES A PHOTOGRAPH, SOUND RECORDING, OR
3 OTHER PHYSICAL IMPRESSION OR DIGITAL IMAGE OF ANOTHER PERSON
4 WHO IS A PARTY TO A CIVIL CASE; AND

5 (b) THE PHOTOGRAPH, SOUND RECORDING, OR OTHER PHYSICAL
6 IMPRESSION OR DIGITAL IMAGE IS GERMANE TO THE CIVIL CASE.

7 **SECTION 2. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2016 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.