To describe the authority under which Federal entities may use mobile aerial-view devices to surveil, protect individual and collective privacy against warrantless governmental intrusion through the use of mobile aerial-view devices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on  

A BILL

To describe the authority under which Federal entities may use mobile aerial-view devices to surveil, protect individual and collective privacy against warrantless governmental intrusion through the use of mobile aerial-view devices, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Individuals
From Mass Aerial Surveillance Act of 2015”.

SEC. 2. DEFINITIONS.

In this Act—
(1) the terms “mobile aerial-view device” and “MAVD” mean any device that through flight or aerial lift obtains a dynamic, aerial view of property, persons or their effects, including an unmanned aircraft (as defined in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note));

(2) the term “law enforcement party” means a person or entity authorized by law, or funded by the Government of the United States, to investigate or prosecute offenses against the United States;

(3) the term “Federal entity” means any person or entity acting under the authority of, or funded in whole or in part by, the Government of the United States, including a Federal law enforcement party, but excluding State, tribal, or local government agencies or departments;

(4) the term “non-Federal entity” means any person or entity that is not a Federal entity;

(5) the term “surveil” means to photograph, record, or observe using a sensing device, regardless of whether the photographs, observations, or recordings are stored, and excludes using a sensing device for the purposes of testing or training operations of MAVDs;
(6)(A) the term “sensing device” means a device capable of remotely acquiring personal information from its surroundings using any frequency of the electromagnetic spectrum, or a sound detecting system, or a system that detects chemicals in the atmosphere; and

(B) the term “sensing device” does not include equipment whose sole function is to provide information directly necessary for safe air navigation or operation of a MAVD;

(7) the term “public lands” means lands owned by the Government of the United States; and

(8) the term “national borders” refers to any region no more than 25 miles of an external land boundary of the United States.

SEC. 3. PROHIBITED USE OF MAVDS.

A Federal entity shall not use a MAVD to surveil property, persons or their effects, or gather evidence or other information pertaining to known or suspected criminal conduct, or conduct that is in violation of a statute or regulation.

SEC. 4. EXCEPTIONS.

(a) This Act does not prohibit any of the following:

(1) PATROL OF BORDERS.—The use of a MAVD by a Federal entity to surveil national bor-
orders to prevent or deter illegal entry of any persons or illegal substances at the borders.

(2) EXIGENT CIRCUMSTANCES.—

(A) The use of a MAVD by a Federal entity when exigent circumstances exist. For the purposes of this paragraph, exigent circumstances exist when the Federal entity possesses reasonable suspicion that under particular circumstances, swift action is necessary—

(i) to prevent imminent danger of death or serious bodily harm to a specific individual; or

(ii) to counter an imminent risk of a terrorist attack by a specific individual or organization;

(iii) to prevent imminent destruction of evidence; or

(iv) to counter an imminent or actual escape of a criminal or terrorist suspect.

(B) A Federal entity using a MAVD pursuant to subparagraph (A)(i) must maintain a retrievable record of the facts giving rise to the reasonable suspicion that an exigent circumstance existed.
(3) **Public safety and research.**—The use of a MAVD by a Federal entity—

(A) to discover, locate, observe, gather evidence in connection to, or prevent forest fires;

(B) to monitor environmental, geologic, or weather-related catastrophe or damage from such an event;

(C) to research or survey for wildlife management, habitat preservation, or geologic, atmospheric, or environmental damage or conditions;

(D) to survey for the assessment and evaluation of environmental, geologic or weather-related damage, erosion, flood, or contamination; and

(E) to survey public lands for illegal vegetation.

(4) **Consent.**—The use of a MAVD by a Federal entity for the purpose of acquiring information about an individual, or about an individual’s property or effects, if such individual has given written consent to the use of a MAVD for such purposes.

(5) **Warrant.**—Law enforcement using a MAVD, pursuant to, and in accordance with, a Rule
SEC. 5. BAN ON IDENTIFYING INDIVIDUALS.

(a) No Federal entity actor may make any intentional effort to identify an individual from, or associate an individual with, the information collected by operations authorized by paragraphs (1) through (3) of subsection (a), nor shall the collected information be disclosed to any entity except another Federal entity or State, tribal, or local government agency or department, or political subdivision thereof, that agrees to be bound by the restrictions in this Act.

(b) The restrictions described in subsection (a) shall not apply if there is probable cause that the information collected is evidence of specific criminal activity.

SEC. 6. PROHIBITION ON USE OF EVIDENCE.

No evidence obtained or collected in violation of this Act may be received as evidence against an individual 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 United States, a State, or a political subdivision thereof.

SEC. 7. PROHIBITION ON SOLICITATION AND PURCHASE.

(a) A Federal entity shall not solicit to or award contracts to any entity for such entity to surveil by MAVD
for the Federal entity, unless the Federal entity has exist-
ing authority to surveil the particular property, persons
or their effects, or interest.

(b) A Federal entity shall not purchase any informa-
tion obtained from MAVD surveillance by a non-Federal
entity if such information contains personal information,
except pursuant to the express consent of all persons
whose personal information is to be sold.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to preempt any
State law regarding the use of MAVDs exclusively within
the borders of that State.