

As Introduced

**130th General Assembly
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H. B. No. 207

Representative Damschroder

**Cosponsors: Representatives Adams, J., Beck, Becker, Hood, Huffman,
Stebelton, Thompson**

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A B I L L

To amend sections 2743.58 and 2744.02 and to enact 1
section 4561.50 of the Revised Code to limit the 2
use of drones by law enforcement agencies and 3
prohibit the defense of sovereign immunity with 4
regard to a prohibited use of drones. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2743.58 and 2744.02 be amended and 6
section 4561.50 of the Revised Code be enacted to read as follows: 7

Sec. 2743.58. The prosecuting attorney and any officer or 8
employee of the office of the prosecuting attorney or of the law 9
enforcement agency shall be immune from any civil liability that 10
might otherwise be incurred as the result of providing information 11
on criminally injurious conduct and related matters to the 12
attorney general, unless such information was obtained in 13
violation of division (A) of section 4561.50 of the Revised Code. 14

Sec. 2744.02. (A)(1) For the purposes of this chapter, the 15
functions of political subdivisions are hereby classified as 16
governmental functions and proprietary functions. Except as 17

provided in division (B) of this section, a political subdivision 18
is not liable in damages in a civil action for injury, death, or 19
loss to person or property allegedly caused by any act or omission 20
of the political subdivision or an employee of the political 21
subdivision in connection with a governmental or proprietary 22
function. 23

(2) The defenses and immunities conferred under this chapter 24
apply in connection with all governmental and proprietary 25
functions performed by a political subdivision and its employees, 26
whether performed on behalf of that political subdivision or on 27
behalf of another political subdivision. 28

(3) Subject to statutory limitations upon their monetary 29
jurisdiction, the courts of common pleas, the municipal courts, 30
and the county courts have jurisdiction to hear and determine 31
civil actions governed by or brought pursuant to this chapter. 32

(B) Subject to sections 2744.03 and 2744.05 of the Revised 33
Code, a political subdivision is liable in damages in a civil 34
action for injury, death, or loss to person or property allegedly 35
caused by an act or omission of the political subdivision or of 36
any of its employees in connection with a governmental or 37
proprietary function, as follows: 38

(1) Except as otherwise provided in this division, political 39
subdivisions are liable for injury, death, or loss to person or 40
property caused by the negligent operation of any motor vehicle by 41
their employees when the employees are engaged within the scope of 42
their employment and authority. The following are full defenses to 43
that liability: 44

(a) A member of a municipal corporation police department or 45
any other police agency was operating a motor vehicle while 46
responding to an emergency call and the operation of the vehicle 47
did not constitute willful or wanton misconduct; 48

(b) A member of a municipal corporation fire department or 49
any other firefighting agency was operating a motor vehicle while 50
engaged in duty at a fire, proceeding toward a place where a fire 51
is in progress or is believed to be in progress, or answering any 52
other emergency alarm and the operation of the vehicle did not 53
constitute willful or wanton misconduct; 54

(c) A member of an emergency medical service owned or 55
operated by a political subdivision was operating a motor vehicle 56
while responding to or completing a call for emergency medical 57
care or treatment, the member was holding a valid commercial 58
driver's license issued pursuant to Chapter 4506. or a driver's 59
license issued pursuant to Chapter 4507. of the Revised Code, the 60
operation of the vehicle did not constitute willful or wanton 61
misconduct, and the operation complies with the precautions of 62
section 4511.03 of the Revised Code. 63

(2) Except as otherwise provided in sections 3314.07 and 64
3746.24 of the Revised Code, political subdivisions are liable for 65
injury, death, or loss to person or property caused by the 66
negligent performance of acts by their employees with respect to 67
proprietary functions of the political subdivisions. 68

(3) Except as otherwise provided in section 3746.24 of the 69
Revised Code, political subdivisions are liable for injury, death, 70
or loss to person or property caused by their negligent failure to 71
keep public roads in repair and other negligent failure to remove 72
obstructions from public roads, except that it is a full defense 73
to that liability, when a bridge within a municipal corporation is 74
involved, that the municipal corporation does not have the 75
responsibility for maintaining or inspecting the bridge. 76

(4) Except as otherwise provided in section 3746.24 of the 77
Revised Code, political subdivisions are liable for injury, death, 78
or loss to person or property that is caused by the negligence of 79
their employees and that occurs within or on the grounds of, and 80

is due to physical defects within or on the grounds of, buildings 81
that are used in connection with the performance of a governmental 82
function, including, but not limited to, office buildings and 83
courthouses, but not including jails, places of juvenile 84
detention, workhouses, or any other detention facility, as defined 85
in section 2921.01 of the Revised Code. 86

(5) In addition to the circumstances described in divisions 87
(B)(1) to (4) of this section, a political subdivision is liable 88
for injury, death, or loss to person or property when civil 89
liability is expressly imposed upon the political subdivision by a 90
section of the Revised Code, including, but not limited to, 91
~~sections~~ 2743.02, division (C) of section 4561.50, and section 92
5591.37 of the Revised Code. Civil liability shall not be 93
construed to exist under another section of the Revised Code 94
merely because that section imposes a responsibility or mandatory 95
duty upon a political subdivision, because that section provides 96
for a criminal penalty, because of a general authorization in that 97
section that a political subdivision may sue and be sued, or 98
because that section uses the term "shall" in a provision 99
pertaining to a political subdivision. 100

(C) An order that denies a political subdivision or an 101
employee of a political subdivision the benefit of an alleged 102
immunity from liability as provided in this chapter or any other 103
provision of the law is a final order. 104

Sec. 4561.50. (A) No law enforcement agency, or any person 105
acting on behalf of a law enforcement agency, shall operate a 106
drone in order to obtain evidence or any other information, except 107
in circumstances in which any of the following apply: 108

(1) The United States secretary of homeland security has 109
determined that credible intelligence indicates that there is high 110
risk of a terrorist attack by a specific person or organization 111

and the operation of the drone is necessary to address the threat 112
of that terrorist attack; 113

(2) The law enforcement agency has obtained a search warrant 114
pursuant to section 2933.21 of the Revised Code and the operation 115
of the drone is in accordance with that warrant; 116

(3) The operation of a drone by a law enforcement agency, or 117
any person acting on behalf of the law enforcement agency, is 118
based upon a reasonable suspicion that swift action is needed to 119
prevent imminent harm to life or serious damage to property, or to 120
forestall the imminent escape of a suspect or the destruction of 121
evidence. 122

(B) No information collected while operating a drone, and no 123
evidence derived therefrom, shall be used as evidence in any 124
trial, hearing, or other proceeding before any court, agency, or 125
other authority of the state or a political subdivision of the 126
state if the information was obtained in violation of this section 127
or if the information was obtained pursuant to an authorized use 128
under divisions (A)(1) to (3) of this section but was beyond the 129
scope of that authorized use. 130

(C) Any person aggrieved or adversely affected by an alleged 131
violation of division (A) of this section may commence a civil 132
action for damages, including reasonable attorney's fees, against 133
any person, the state, or the political subdivision alleged to be 134
in violation of this section. If a violation has occurred, 135
sovereign immunity shall not apply to the proceeding or limit or 136
bar recovery of damages. 137

(D) As used in this section: 138

(1) "Drone" means any aircraft to which all of the following 139
apply: 140

(a) The aircraft does not carry a human operator; 141

<u>(b) The aircraft uses aerodynamic forces to provide vehicle</u>	142
<u>lift;</u>	143
<u>(c) The aircraft can fly autonomously or be piloted remotely.</u>	144
<u>(2) "Law enforcement agency" means a police department, the</u>	145
<u>office of a sheriff, the state highway patrol, a county</u>	146
<u>prosecuting attorney, the attorney general, or a state or local</u>	147
<u>governmental body that enforces criminal laws and that has</u>	148
<u>employees who have a statutory power of arrest.</u>	149
Section 2. That existing sections 2743.58 and 2744.02 of the	150
Revised Code are hereby repealed.	151