

**As Reported by the House Transportation, Public Safety, and  
Homeland Security Committee**

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**Am. H. B. No. 207**

**Representative Damschroder**

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

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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) No drone shall be equipped with any weapon of any kind. 138

(E) As used in this section: 139

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

<u>apply:</u>	141
<u>(a) The aircraft does not carry a human operator;</u>	142
<u>(b) The aircraft uses aerodynamic forces to provide vehicle</u> <u>lift;</u>	143 144
<u>(c) The aircraft can fly autonomously or be piloted remotely.</u>	145
<u>(2) "Law enforcement agency" means a police department, the</u> <u>office of a sheriff, the state highway patrol, a county</u> <u>prosecuting attorney, the attorney general, or a state or local</u> <u>governmental body that enforces criminal laws and that has</u> <u>employees who have a statutory power of arrest.</u>	146 147 148 149 150
<b>Section 2.</b> That existing sections 2743.58 and 2744.02 of the Revised Code are hereby repealed.	151 152