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# TORT LAW RELATING TO DRONES ACT

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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March 1-2, 2019 Drafting Committee Meeting

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February 19, 2019

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1           **SECTION 5: AIRSPACE INTRUSIONS.**

2           (a) An aerial trespass occurs when a person intentionally and without consent of the  
3 landowner operates an unmanned aircraft in the airspace over the landowner's property and by so  
4 doing causes substantial interference with the use and enjoyment of the property.

5           (b) The determination of whether an unmanned aircraft's operation over property has  
6 caused substantial interference with the use and enjoyment of property shall be based upon a  
7 review of the totality of the circumstances, including:

8                   (1) The amount of time the unmanned aircraft was operated over the landowner's  
9 property;

10                   (2) The altitude at which the unmanned aircraft was operating;

11                   (3) The number of times unmanned aircraft have been operated over the property;

12                   (4) Whether the unmanned aircraft recorded or captured audio, video or  
13 photographs while in operation over the property;

14                   (5) Whether the landowner has regularly allowed operation of unmanned aircraft  
15 over the property;

16                   (6) Whether the operation of the unmanned aircraft caused physical damage to  
17 persons or property;

18                   (7) Whether the operation of the unmanned aircraft caused economic damage;

19                   (8) The time of day the unmanned aircraft was operated over the landowner's  
20 property;

21                   (9) Whether an individual on the land saw or heard the unmanned aircraft while it  
22 was over the property; and,

23                   (10) The operator's purpose in operating the unmanned aircraft over the property.

1 (c) Repeated or continual operation of an unmanned aircraft over a landowner's property  
2 shall not give rise to prescriptive rights in the airspace.

3 **SECTION 6: INTRUSIONS ON LAND.**

4 (a) Except as provided in subsection (b), a person who, without permission, intentionally  
5 lands an unmanned aircraft on the land of another, or who intentionally causes an unmanned  
6 aircraft to come into physical contact with a structure, plant life, or individual on the land of  
7 another, commits a trespass to land.

8 (b) A trespass to land does not occur under subsection (a) when:

9 (1) the unmanned aircraft operator is forced to land the unmanned aircraft because  
10 of unexpected circumstances that reasonably justify such a landing; or,

11 (2) the unmanned aircraft malfunctions or otherwise touches down upon the  
12 surface of the land because of weather or other factors beyond the operator's control.

13 (c) A person asserting the privileges provided in subsection (b) is liable for any damage  
14 caused by the unmanned aircraft's operation.

15 (d) Regardless of how an unmanned aircraft came to rest upon the property of another,  
16 the owner or operator of the unmanned aircraft has a right to recover the unmanned aircraft upon  
17 a request to the owner of such property. A landowner shall not unreasonably refuse a request to  
18 return the unmanned aircraft or to permit the unmanned aircraft's operator to recover the  
19 unmanned aircraft from the property.

20 **SECTION 7: LANDOWNER DUTIES AND RESPONSIBILITIES.**

21 (a) A landowner shall act with reasonable care in relation to known unmanned aircraft  
22 operating in the navigable airspace over the landowner's property.

23 (b) A landowner shall not take any action intended to interfere with the flight of

1 unmanned aircraft over the landowner's property.

2 (c) A landowner owes no duty to ensure that the airspace above the landowner's property  
3 is free from natural or artificial obstructions.

4 **SECTION 8: UNMANNED AIRCRAFT AND VIOLATIONS OF PRIVACY.**

5 (a) Privacy related civil actions may be based upon the operation of an unmanned  
6 aircraft.

7 (b) A determination of whether an unmanned aircraft's operation over property was used  
8 to violate a privacy-related right shall be based upon a review of the totality of the  
9 circumstances, including:

10 (1) Whether by hovering or repeated flights the unmanned aircraft was likely to  
11 have provided the operator with the opportunity to use the unmanned aircraft to view, listen to,  
12 record or capture by camera, microphone or other device, individuals who were present at that  
13 place and time; and,

14 (2) Whether the operator made statements or took other overt actions indicating a  
15 desire to use an unmanned aircraft to infringe upon rights of privacy recognized in this state.

16 **SECTION 9. NEGLIGENCE OPERATION OF AN UNMANNED AIRCRAFT.**

17 (a) An operator acts negligently if the operator does not exercise reasonable care under all  
18 of the circumstances.

19 (b) The standard of care against which an operator of an unmanned aircraft shall be  
20 judged is the standard of care of a similarly situated operator of an unmanned aircraft, including  
21 whether the operator is a commercial or hobbyist operator and whether the operator is required  
22 by the Federal Aviation Administration or other authority to hold a license for the operation of  
23 the unmanned aircraft.

1           **SECTION 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
2 applying and construing this [Uniform Act], consideration must be given to the need to promote  
3 uniformity of the law with respect to its subject matter among the states that enact it.

4           **SECTION 11. SAVINGS CLAUSE.** This [Act] does not affect the validity or effect of  
5 a notarial act performed before [the effective date of this [Act]].

6           **[SECTION 12. SEVERABILITY.** If any provision of this [Act] or its application to  
7 any person or circumstance is held invalid, the invalidity does not affect other provisions or  
8 applications of this [Act] which can be given effect without the invalid provision or application,  
9 and to this end the provisions of this [Act] are severable.]

10 ***Legislative Note:*** Include this section only if this state lacks a general severability statute or a  
11 decision by the highest court of this state stating a general rule of severability.

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13           **SECTION 13. EFFECTIVE DATE.** This [Act] takes effect . . . .