

By: Zaffirini

S.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to certain images captured by an unmanned aircraft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 423.002, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) It is lawful to capture an image using an unmanned aircraft in this state:

(1) for the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, including a person who:

(A) is a professor, employee, or student of the institution; or

(B) is under contract with or otherwise acting under the direction or on behalf of the institution;

(2) in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace;

(3) as part of an operation, exercise, or mission of any branch of the United States military;

1           (4) if the image is captured by a satellite for the  
2 purposes of mapping;

3           (5) if the image is captured by or for an electric or  
4 natural gas utility:

5                 (A) for operations and maintenance of utility  
6 facilities for the purpose of maintaining utility system  
7 reliability and integrity;

8                 (B) for inspecting utility facilities to  
9 determine repair, maintenance, or replacement needs during and  
10 after construction of such facilities;

11                (C) for assessing vegetation growth for the  
12 purpose of maintaining clearances on utility easements; and

13                (D) for utility facility routing and siting for  
14 the purpose of providing utility service;

15           (6) with the consent of the individual who owns or  
16 lawfully occupies the real property captured in the image;

17           (7) pursuant to a valid search or arrest warrant;

18           (8) if the image is captured by a law enforcement  
19 authority or a person who is under contract with or otherwise acting  
20 under the direction or on behalf of a law enforcement authority:

21                 (A) in immediate pursuit of a person law  
22 enforcement officers have reasonable suspicion or probable cause to  
23 suspect has committed an offense, not including misdemeanors or  
24 offenses punishable by a fine only;

25                 (B) for the purpose of documenting a crime scene  
26 where an offense, not including misdemeanors or offenses punishable  
27 by a fine only, has been committed;

1 (C) for the purpose of investigating the scene  
2 of:

3 (i) a human fatality;

4 (ii) a motor vehicle accident causing death  
5 or serious bodily injury to a person; or

6 (iii) any motor vehicle accident on a state  
7 highway or federal interstate or highway;

8 (D) in connection with the search for a missing  
9 person;

10 (E) for the purpose of conducting a high-risk  
11 tactical operation that poses a threat to human life; or

12 (F) of private property that is generally open to  
13 the public where the property owner consents to law enforcement  
14 public safety responsibilities;

15 (9) if the image is captured by state or local law  
16 enforcement authorities, or a person who is under contract with or  
17 otherwise acting under the direction or on behalf of state  
18 authorities, for the purpose of:

19 (A) surveying the scene of a catastrophe or other  
20 damage to determine whether a state of emergency should be  
21 declared;

22 (B) preserving public safety, protecting  
23 property, or surveying damage or contamination during a lawfully  
24 declared state of emergency; or

25 (C) conducting routine air quality sampling and  
26 monitoring, as provided by state or local law;

27 (10) at the scene of a spill, or a suspected spill, of

1 hazardous materials;

2 (11) for the purpose of fire suppression;

3 (12) for the purpose of rescuing a person whose life or  
4 well-being is in imminent danger;

5 (13) if the image is captured by a Texas licensed real  
6 estate broker in connection with the marketing, sale, or financing  
7 of real property, provided that no individual is identifiable in  
8 the image;

9 (14) of real property or a person on real property that  
10 is within 25 miles of the United States border;

11 (15) from a height no more than eight feet above ground  
12 level in a public place, if the image was captured without using any  
13 electronic, mechanical, or other means to amplify the image beyond  
14 normal human perception;

15 (16) of public real property or a person on that  
16 property;

17 (17) if the image is captured by the owner or operator  
18 of an oil, gas, water, or other pipeline for the purpose of  
19 inspecting, maintaining, or repairing pipelines or other related  
20 facilities, and is captured without the intent to conduct  
21 surveillance on an individual or real property located in this  
22 state;

23 (18) in connection with oil pipeline safety and rig  
24 protection;

25 (19) in connection with port authority surveillance  
26 and security;

27 (20) if the image is captured by a registered

1 professional land surveyor in connection with the practice of  
2 professional surveying, as those terms are defined by Section  
3 1071.002, Occupations Code, provided that no individual is  
4 identifiable in the image; ~~or~~

5 (21) if the image is captured by a professional  
6 engineer licensed under Subchapter G, Chapter 1001, Occupations  
7 Code, in connection with the practice of engineering, as defined by  
8 Section 1001.003, Occupations Code, provided that no individual is  
9 identifiable in the image; or

10 (22) if the image is captured by a journalist for the  
11 purpose of reporting on a matter that:

12 (A) is of substantial public interest;

13 (B) potentially affects public safety, including  
14 an inclement weather event; and

15 (C) occurs under circumstances in which  
16 individuals whose images are captured do not have a reasonable  
17 expectation of privacy, including a mass gathering.

18 (c) In this section:

19 (1) "Journalist" has the meaning assigned by Section  
20 22.021, Civil Practice and Remedies Code.

21 (2) "Mass gathering" means a gathering that attracts  
22 or is expected to attract more than 200 individuals who will remain  
23 at the location of the gathering for more than two consecutive  
24 hours.

25 SECTION 2. This Act takes effect September 1, 2017.