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H.B. No. 106

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain images captured by an unmanned aircraft.

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

4 SECTION 1. Section 423.002(a), Government Code, is amended  
5 to read as follows:

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

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

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

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

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

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

24 (4) if the image is captured by a satellite for the

1 purposes of mapping;

2 (5) if the image is captured by or for an electric or  
3 natural gas utility or a telecommunications provider:

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

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

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

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

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

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

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

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

26 (B) for the purpose of documenting a crime scene  
27 where an offense, not including misdemeanors or offenses punishable

1 by a fine only, has been committed;

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

4 (i) a human fatality;

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

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

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

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

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

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

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

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

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

1           (10) at the scene of a spill, or a suspected spill, of  
2 hazardous materials;

3           (11) for the purpose of fire suppression;

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

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

10           (14) [~~of real property or a person on real property~~  
11 ~~that is within 25 miles of the United States border,~~

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

16           (15) [~~(16)~~] of public real property or a person on  
17 that property;

18           (16) [~~(17)~~] if the image is captured by the owner or  
19 operator of an oil, gas, water, or other pipeline for the purpose of  
20 inspecting, maintaining, or repairing pipelines or other related  
21 facilities, and is captured without the intent to conduct  
22 surveillance on an individual or real property located in this  
23 state;

24           (17) [~~(18)~~] in connection with oil pipeline safety and  
25 rig protection;

26           (18) [~~(19)~~] in connection with port authority  
27 surveillance and security;

1           (19) [~~(20)~~] if the image is captured by a registered  
2 professional land surveyor in connection with the practice of  
3 professional surveying, as those terms are defined by Section  
4 1071.002, Occupations Code, provided that no individual is  
5 identifiable in the image; [~~or~~]

6           (20) [~~(21)~~] if the image is captured by a professional  
7 engineer licensed under Subchapter G, Chapter 1001, Occupations  
8 Code, in connection with the practice of engineering, as defined by  
9 Section 1001.003, Occupations Code, provided that no individual is  
10 identifiable in the image;

11           (21) if the image is captured by an employee of an  
12 insurance company or of an affiliate of the company in connection  
13 with the underwriting of an insurance policy, or the rating or  
14 adjusting of an insurance claim, regarding real property or a  
15 structure on real property and if the operator of the unmanned  
16 aircraft is authorized by the Federal Aviation Administration to  
17 conduct operations within the airspace from which the image is  
18 captured; or

19           (22) if:

20                   (A) the image is captured only for the purpose of  
21 delivering consumer goods that were ordered through an Internet  
22 website or mobile application and the operator of the unmanned  
23 aircraft is authorized by the Federal Aviation Administration to  
24 conduct operations within the airspace from which the image is  
25 captured;

26                   (B) the image is necessary to the purpose  
27 described by Paragraph (A), including images captured for purposes

1 of navigation or ensuring public safety;

2 (C) no individual is identifiable in the image;

3 (D) the image is not publicly displayed,  
4 distributed, or disclosed; and

5 (E) the original image, and all copies and  
6 backups of the image, are destroyed promptly following the delivery  
7 of the consumer goods described by Paragraph (A).

8 SECTION 2. The change in law made by this Act applies only  
9 to an offense committed on or after the effective date of this Act.  
10 An offense committed before the effective date of this Act is  
11 governed by the law in effect on the date the offense was committed,  
12 and the former law is continued in effect for that purpose. For  
13 purposes of this section, an offense was committed before the  
14 effective date of this Act if any element of the offense occurred  
15 before that date.

16 SECTION 3. This Act takes effect September 1, 2017.