

House Bill 1424
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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CONFERENCE

No equivalent provision.

SECTION __. Section 423.002(a), Government Code, is amended 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;

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

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

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

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

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

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

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- (6) with the consent of the individual who owns or lawfully occupies the real property captured in the image;
- (7) pursuant to a valid search or arrest warrant;
- (8) if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority:
 - (A) in immediate pursuit of a person law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by a fine only;
 - (B) for the purpose of documenting a crime scene where an offense, not including misdemeanors or offenses punishable by a fine only, has been committed;
 - (C) for the purpose of investigating the scene of:
 - (i) a human fatality;
 - (ii) a motor vehicle accident causing death or serious bodily injury to a person; or
 - (iii) any motor vehicle accident on a state highway or federal interstate or highway;
 - (D) in connection with the search for a missing person;
 - (E) for the purpose of conducting a high-risk tactical operation that poses a threat to human life; or
 - (F) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities;
- (9) if the image is captured by state or local law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities, for the purpose of:
 - (A) surveying the scene of a catastrophe or other damage to determine whether a state of emergency should be declared;
 - (B) preserving public safety, protecting property, or

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surveying damage or contamination during a lawfully declared state of emergency; or
(C) conducting routine air quality sampling and monitoring, as provided by state or local law;
(10) at the scene of a spill, or a suspected spill, of hazardous materials;
(11) for the purpose of fire suppression;
(12) for the purpose of rescuing a person whose life or well-being is in imminent danger;
(13) if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;
(14) of real property or a person on real property that is within 25 miles of the United States border;
(15) from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;
(16) of public real property or a person on that property;
(17) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in this state;
(18) in connection with oil pipeline safety and rig protection;
(19) in connection with port authority surveillance and security;
(20) if the image is captured by a registered professional land surveyor in connection with the practice of professional surveying, as those terms are defined by Section 1071.002, Occupations Code, provided that no individual is identifiable

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in the image; [ø€]

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

(22) if the image is:

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

(B) directly related to the purpose described by Paragraph (A), including images captured for purposes of navigation or ensuring public safety. [FA1]

SECTION 1. The heading to Section 423.0045, Government Code, is amended to read as follows:

Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER CORRECTIONAL FACILITY, DETENTION FACILITY, OR CRITICAL INFRASTRUCTURE FACILITY.

SECTION 1. Same as House version.

SECTION 2. Section 423.0045(a), Government Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (3) to read as follows:

(1) "Correctional facility" means:

(A) a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice;

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(B) a municipal or county jail;

(C) a confinement facility operated by or under contract with the Federal Bureau of Prisons; or

(D) a secure correctional facility or secure detention facility, as defined by Section 51.02, Family Code.

(1-a) "Critical infrastructure facility" means:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) a petroleum or alumina refinery;

(ii) an electrical power generating facility, substation, switching station, or electrical control center;

(iii) a chemical, polymer, or rubber manufacturing facility;

(iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(v) a natural gas compressor station;

(vi) a liquid natural gas terminal or storage facility;

(vii) a telecommunications central switching office;

(viii) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

(ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(x) a transmission facility used by a federally licensed radio or television station;

(xi) a steelmaking facility that uses an electric arc furnace to make steel; or

(xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or

(B) any portion of an aboveground oil, gas, or chemical pipeline that is enclosed by a fence or other physical barrier

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that is obviously designed to exclude intruders.

(3) "Detention facility" means a facility operated by or under contract with United States Immigration and Customs Enforcement for the purpose of detaining aliens and placing them in removal proceedings.

SECTION 3. Sections 423.0045(b), (c), and (d), Government Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly:

(1) operates an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground level;

(2) allows an unmanned aircraft to make contact with a correctional facility, detention facility, or critical infrastructure facility, including any person or object on the premises of or within the facility; or

(3) allows an unmanned aircraft to come within a distance of a correctional facility, detention facility, or critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(c) This section does not apply to:

(1) conduct described by Subsection (b) that involves a correctional facility, detention facility, or critical infrastructure facility and is committed by:

(A) [(1)] the federal government, the state, or a governmental entity;

(B) [(2)] a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;

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(C) ~~[(3)]~~ a law enforcement agency;

(D) ~~[(4)]~~ a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;

or

(E) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(i) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(ii) all required Federal Aviation Administration authorizations; or

(2) conduct described by Subsection (b) that involves a critical infrastructure facility and is committed by:

(A) ~~[(5)]~~ an owner or operator of the critical infrastructure facility;

(B) ~~[(6)]~~ a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the critical infrastructure facility;

(C) ~~[(7)]~~ a person who has the prior written consent of the owner or operator of the critical infrastructure facility; or

(D) ~~[(8)]~~ the owner or occupant of the property on which the critical infrastructure facility is located or a person who has the prior written consent of the owner or occupant of that property~~;~~ ~~or~~

~~[(9) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operator is authorized by the Federal Aviation Administration to conduct operations over that airspace].~~

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0046.

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SECTION 4. Chapter 423, Government Code, is amended by adding Section 423.0046 to read as follows:

Sec. 423.0046. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER SPORTS VENUE. (a) In this section, "sports venue" means an arena, automobile racetrack, coliseum, stadium, or other type of area or facility that:

- (1) has a seating capacity of 30,000 or more people; and
- (2) is primarily used for one or more professional or amateur sports or athletics events.

(b) A person commits an offense if the person operates an unmanned aircraft over a sports venue and the unmanned aircraft is not higher than 400 feet above ground level.

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

- (1) the federal government, the state, or a governmental entity;
- (2) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;
- (3) a law enforcement agency;
- (4) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;
- (5) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:
 - (A) each applicable Federal Aviation Administration rule, restriction, or exemption; and
 - (B) all required Federal Aviation Administration authorizations;

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SECTION 4. Chapter 423, Government Code, is amended by adding Section 423.0046 to read as follows:

Sec. 423.0046. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER SPORTS VENUE. (a) In this section, "sports venue" means an arena, automobile racetrack, coliseum, stadium, or other type of area or facility that:

- (1) has a seating capacity of 30,000 or more people; and
- (2) is primarily used for one or more professional or amateur sports or athletics events.

(b) A person commits an offense if the person intentionally or knowingly operates an unmanned aircraft over a sports venue and the unmanned aircraft is not higher than 400 feet above ground level. [FA2]

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

- (1) the federal government, the state, or a governmental entity;
- (2) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;
- (3) a law enforcement agency;
- (4) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;
- (5) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:
 - (A) each applicable Federal Aviation Administration rule, restriction, or exemption; and
 - (B) all required Federal Aviation Administration authorizations;

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(6) an owner or operator of the sports venue;
(7) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the sports venue; or
(8) a person who has the prior written consent of the owner or operator of the sports venue.
(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0045.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2017.

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(6) an owner or operator of the sports venue;
(7) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the sports venue; or
(8) a person who has the prior written consent of the owner or operator of the sports venue.
(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0045.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

CONFERENCE