

By: Clardy

H.B. No. 3164

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(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

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;

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; or

16 (G) of real property or a person on real property
17 that is within 25 miles of the United States border for the sole
18 purpose of ensuring border security;

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

23 (A) surveying the scene of a catastrophe or other
24 damage to determine whether a state of emergency should be
25 declared;

26 (B) preserving public safety, protecting
27 property, or surveying damage or contamination during a lawfully

1 declared state of emergency; or

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

4 (10) at the scene of a spill, or a suspected spill, of
5 hazardous materials;

6 (11) for the purpose of fire suppression;

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

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

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

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

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

25 (17) in connection with oil pipeline safety and rig
26 protection;

27 (18) in connection with port authority surveillance

1 and security;

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

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

12 (21) if:

13 (A) the image is captured by an employee of an
14 insurance company or of an affiliate of the company in connection
15 with the underwriting of an insurance policy, or the rating or
16 adjusting of an insurance claim, regarding real property or a
17 structure on real property; and

18 (B) the operator of the unmanned aircraft is
19 authorized by the Federal Aviation Administration to conduct
20 operations within the airspace from which the image is captured; or

21 (22) if the image is captured by a governmental entity
22 or a person contracted by or under the direction of a governmental
23 entity, for the purpose of:

24 (A) the provision of 9-1-1 service; or

25 (B) a mapping project or service other than a
26 project or service for a law enforcement purpose.

27 SECTION 2. Section 423.005, Government Code, is amended by

1 amending Subsection (a) and adding Subsection (c) to read as
2 follows:

3 (a) Except as otherwise provided by Subsection (b) or (c),
4 an image captured in violation of Section 423.003, or an image
5 captured by an unmanned aircraft that was incidental to the lawful
6 capturing of an image:

7 (1) may not be used as evidence in any criminal or
8 juvenile proceeding, civil action, or administrative proceeding;

9 (2) is not subject to disclosure, inspection, or
10 copying under Chapter 552; and

11 (3) is not subject to discovery, subpoena, or other
12 means of legal compulsion for its release.

13 (c) An image captured under Section 423.002(a)(22) that
14 contains an incidental image of an unidentifiable individual may be
15 used and shared by and between governmental entities and the public
16 and is not prohibited from disclosure, inspection, or copying under
17 Chapter 552.

18 SECTION 3. This Act takes effect September 1, 2019.