

By: Hall

S.B. No. 2034

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;

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.