87R10104 JCG-F

By:  Thompson of Brazoria H.B. No. 3251

A BILL TO BE ENTITLED

AN ACT

relating to the use of unmanned aircraft.

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

SECTION 1.  Section 423.001, Government Code, is amended to read as follows:

Sec. 423.001.  DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1)  "Capture" means the actual care, custody, control, or management of any physical or electronic representation of an image that is capable of being copied or destroyed.

(2)  "Image [~~, "image~~]" means any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.

(3)  "Surveillance" means the intentional and continuous close observation of an individual or property.

SECTION 2.  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 or a telecommunications provider:

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

(B)  for inspecting utility or telecommunications 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 or telecommunications easements; and

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

(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;

(F)  of private property if [~~that is generally open to the public where~~] the property owner consents to a search in connection with a purpose described by Paragraph (A), (B), (C), (D), or (E) [~~to law enforcement public safety responsibilities~~]; or

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

(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 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)  [~~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;~~

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

(15) [~~(16)~~]  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;

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

(17) [~~(18)~~]  in connection with port authority surveillance and security;

(18) [~~(19)~~]  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 in the image;

(19) [~~(20)~~]  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

(20) [~~(21)~~]  if:

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

(B)  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.

SECTION 3.  Section 423.008, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  This section applies to each:

(1)  state law enforcement agency;

(2)  county law enforcement agency located in a county with a population greater than 150,000; and

(3)  municipal law enforcement agency located in a municipality with a population greater than 150,000.

(a-1)  Not earlier than January 1 and not later than January 15 of each odd-numbered year, each [~~state~~] law enforcement agency [~~and each county or municipal law enforcement agency located in a county or municipality, as applicable, with a population greater than 150,000,~~] that used or operated an unmanned aircraft during the preceding 24 months shall:

(1)  issue a written report to the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Reference Library in a form and manner prescribed by the recipient; [~~each member of the legislature and shall:~~]

(2) [~~(1)~~]  retain the report for public viewing; and

(3) [~~(2)~~]  post the report on the law enforcement agency's publicly accessible website, if one exists.

SECTION 4.  The changes in law made by this Act apply 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 5.  This Act takes effect September 1, 2021.