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By:  Cyrier H.B. No. 3403

A BILL TO BE ENTITLED

AN ACT

relating to the operation of an unmanned aircraft that is outside the direct line of sight of the operator of the aircraft; creating a criminal offense; imposing a fee.

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

SECTION 1.  Title 3, Transportation Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. OPERATION OF UNMANNED AIRCRAFT OUTSIDE DIRECT LINE OF SIGHT OF OPERATOR

Sec. 27.001.  DEFINITIONS. In this chapter:

(1)  "Avigation easement" means an airspace corridor established by the department through which an unmanned aircraft may operate.

(2)  "Department" means the Texas Department of Transportation.

(3)  "Public safety unmanned aircraft" means an unmanned aircraft that is being operated for a public safety purpose, including responding to an emergency, by a governmental entity or a person under contract with a governmental entity.

Sec. 27.002.  APPLICABILITY. This chapter applies:

(1)  only to an unmanned aircraft that is being operated outside of the direct line of sight of the operator; and

(2)  only to the extent permitted by federal law.

Sec. 27.003.  RULES. The department may adopt rules as necessary to administer this chapter.

Sec. 27.004.  OPERATION OF UNMANNED AIRCRAFT IN AVIGATION EASEMENT REQUIRED; EXCEPTIONS. (a) Except as provided by Subsection (b), a person may not operate an unmanned aircraft that is outside the direct line of sight of the person unless the aircraft is being operated in an avigation easement.

(b)  This section does not apply to:

(1)  an unmanned aircraft that is being operated over:

(A)  federal land; or

(B)  property that is owned or leased by the operator of the unmanned aircraft;

(2)  a person who has the consent of the owner or lessee of the property over which the unmanned aircraft is being operated; or

(3)  a public safety unmanned aircraft that is being operated in response to an emergency, provided that the aircraft is not being used primarily for the collection of evidence or data.

Sec. 27.005.  ESTABLISHMENT OF AVIGATION EASEMENTS. (a) The department shall establish a system authorizing and regulating the operation of unmanned aircraft in avigation easements.

(b)  The department shall establish avigation easements over:

(1)  highways and roads under the jurisdiction of the department;

(2)  state-owned land that is subject to a ground easement;

(3)  the navigable water in this state;

(4)  land described by Subsection (d) following an application submitted to the department by a political subdivision under that subsection; and

(5)  land described by Subsection (e) following an application submitted to the department by a private landowner or owner of a ground easement under that subsection.

(c)  The department may establish avigation easements over any state-owned land, including state parks and beaches, public institutions of higher education, and other state-owned facilities.

(d)  A political subdivision may apply to the department in the manner prescribed by the department for the establishment of an avigation easement over:

(1)  a highway or road under the jurisdiction of the political subdivision; or

(2)  land owned by the political subdivision, including parks, beaches, and land that is subject to a ground easement.

(e)  A private landowner or the owner of a ground easement, other than the state or a political subdivision, may apply to the department in the manner prescribed by the department for the establishment of an avigation easement over the person's property or ground easement.

(f)  The sale or conveyance of property or a ground easement subject to an avigation easement under this section does not affect the validity of the avigation easement, provided that the new owner of the property or ground easement may terminate the avigation easement in accordance with Section 27.010.

Sec. 27.006.  AVIGATION EASEMENT BOUNDARIES. An avigation easement established under Section 27.005:

(1)  must be the same width as the boundaries of the property or ground easement subject to the avigation easement, except that an avigation easement in a residential area that is over:

(A)  a highway or road may not include any adjacent sidewalk or right-of-way; or

(B)  a utility easement may not extend more than five feet on either side of the centerline of the utility easement; and

(2)  may not be higher than 400 feet in height above ground level.

Sec. 27.007.  REQUIREMENTS FOR OPERATION IN AVIGATION EASEMENTS. (a) The department by rule shall establish minimum requirements for unmanned aircraft operating in avigation easements.

(b)  The minimum requirements must:

(1)  require an unmanned aircraft to:

(A)  be equipped with a transponder that allows the department to monitor the operations of the aircraft;

(B)  have the ability to:

(i)  avoid obstructions and other unmanned aircraft in the avigation easement; and

(ii)  automatically obscure facial features of individuals captured by incidental photos taken by the aircraft;

(C)  have sufficient safety features to minimize the danger to persons or property below an avigation easement resulting from system malfunctions or failures; and

(D)  operate at a height that is at least 50 feet above any obstruction that is in the aircraft's path; and

(2)  prohibit an unmanned aircraft from operating at a height that is less than 50 feet above ground level except for purposes of launching or landing the aircraft.

Sec. 27.008.  ENTERING AND EXITING AVIGATION EASEMENT FOR PURPOSES OF LAUNCHING OR LANDING UNMANNED AIRCRAFT. For purposes of entering or exiting an avigation easement, a person may only launch an unmanned aircraft from or land the aircraft on:

(1)  property that is owned or leased by the operator of the unmanned aircraft;

(2)  property for which the person has obtained the consent of the owner or lessee of the property to launch the aircraft from or land the aircraft on; or

(3)  property subject to an avigation easement, other than an avigation easement established under Section 27.005(b)(5).

Sec. 27.009.  USER FEES. (a) The department shall charge a person operating an unmanned aircraft in an avigation easement, other than a public safety unmanned aircraft, a fee for operating the aircraft in the avigation easement.

(b)  In setting the amount of fees under this section, the department shall allow an operator of an unmanned aircraft to:

(1)  pay a fee based on each minute the unmanned aircraft is operated in an avigation easement; or

(2)  purchase a plan that grants the operator unlimited or limited access to operate in avigation easements for a flat fee.

(c)  Fees collected under this section that are attributable to an avigation easement established under Section 27.005(b)(1), (2), or (3) or 27.005(c) shall be deposited to credit of the general revenue fund and may be used only by the department for the administration of this chapter.

(d)  The department shall remit the portion of the fees collected under this section that are attributable to an avigation easement established under Section 27.005(b)(4) or (5) to the political subdivision, private landowner, or owner of a ground easement whose property or ground easement is subject to the avigation easement.

(e)  The department shall establish a method for determining the portion of the fee described by Subsection (b)(2) that is attributable to each avigation easement.

Sec. 27.010.  TERMINATION OF AVIGATION EASEMENT. (a) The department may not terminate an avigation easement established under Section 27.005(b)(1), (2), or (3). The department on its own initiative may terminate an avigation easement established under Section 27.005(c).

(b)  A person who owns property or a ground easement that is subject to an avigation easement established under Section 27.005(b)(4) or (5) may terminate the avigation easement by submitting to the department in the manner prescribed by the department a request to terminate the avigation easement.

(c)  Notwithstanding any other provision of this section, the department may not terminate an avigation easement unless the department has provided public notice of the termination at least 30 days before the date that the termination takes effect.

Sec. 27.011.  GEOFENCING OF CERTAIN PRIVATE PROPERTY. A person who owns private property that is not subject to an avigation easement under Section 27.005 may geofence the property to prohibit an unmanned aircraft from operating over the property, provided that the geofencing may not prohibit a public safety unmanned aircraft that is being operated in response to an emergency from operating over the property.

Sec. 27.012.  OFFENSE. (a) A person commits an offense if the person operates an unmanned aircraft in violation of this chapter or a rule adopted under this chapter.

(b)  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.

SECTION 2.  This Act takes effect September 1, 2021.