

BILL ANALYSIS

C.S.H.B. 2167
By: Smith
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislative efforts have provided certain exceptions to the restrictions on the use of unmanned aircraft to capture images in Texas, making it lawful to capture images in this manner when such aircraft are used by certain individuals in the course of their professional activities, when the images are used for certain purposes for which aerial images provide essential information, or when the aircraft are used under certain conditions. Despite those efforts, interested parties contend that certain institutions of higher education and additional categories of individuals who hold occupational licenses should be able to lawfully capture images by using the technology of unmanned aircraft for purposes of research and development or in order to perform essential functions of their profession more economically and effectively than would be possible otherwise. C.S.H.B. 2167 seeks to amend current law to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2167 amends the Government Code to expand the circumstances under which it is lawful to capture an image using an unmanned aircraft in Texas to include the capture of the image by a registered professional land surveyor in connection with the practice of professional surveying or by a licensed professional engineer in connection with the practice of engineering, provided that no individual is identifiable in the image. The bill expands the institutions on whose behalf it is lawful for a person to capture an image using an unmanned aircraft in Texas for purposes of professional or scholarly research and development to include a private or independent institution of higher education.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2167 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

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 purposes of professional or scholarly research and development by a person acting on behalf of an institution of higher education, as 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;

(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

HOUSE COMMITTEE SUBSTITUTE

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 purposes of professional or scholarly research and development 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;

(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 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

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(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; [Ø]

(19) in connection with port authority surveillance and security;

(20) if the image is captured by a Texas licensed surveyor in connection with the practice of professional surveying, as defined by Section 1071.002, Occupations Code, provided that no individual is identifiable in the image; or

(21) if the image is captured by a Texas licensed engineer in connection with the practice of engineering, as defined by Section 1001.003, Occupations Code, provided that no individual is identifiable in the image.

SECTION 2. 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 3. This Act takes effect September 1, 2015.

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(16) of public real property or a person on that property;

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(18) in connection with oil pipeline safety and rig protection; [Ø]

(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 in the image; or

(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.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.