

SUBJECT: Prohibiting capture of certain images within 25 miles of border by drones

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

SENATE VOTE: On final passage, April 18 — 31-0

WITNESSES: None

BACKGROUND: Government Code, sec. 423.003 criminalizes the use of an unmanned aircraft to capture an image of an individual or privately owned property with the intent to conduct surveillance. This offense is punishable by a class C misdemeanor (maximum fine of \$500).

Under sec. 423.002, the offense does not apply to the use of unmanned aircraft to capture such images in certain circumstances, including for educational research, law enforcement and investigative purposes, utility operations, or capturing images of property located within 25 miles of the U.S. border.

Concerns have been raised that current law governs people and private properties near the U.S. border differently from the rest of the state by allowing any person to use an unmanned aircraft to capture an image with the intent to conduct surveillance on an individual or property within 25 miles of the border.

DIGEST: CSHB 840 would remove from the list of activities designated lawful under Government Code, sec. 423.002 the use of an unmanned aircraft to capture an image of real property or a person on real property that is within 25 miles of the U.S. border.

The bill also would expand the lawful use of unmanned aircraft to capture for certain purposes an image:

- by or for a telecommunications provider; and
- by or for an insurance company, if the operator was authorized by the Federal Aviation Administration to conduct operations within the airspace from which the image was captured.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

NOTES:

CSSB 840 differs from the Senate-passed version in that the committee substitute:

- would expand the lawful use of unmanned aircraft to include capturing an image for telecommunications or insurance purposes; and
- does not include a provision that would have allowed images to be taken of persons or property within 25 miles of the U.S. border for the sole purpose of ensuring border security.

The companion bill, HB 106 by Martinez, was approved by the House on April 28.