

## **BILL ANALYSIS**

Senate Research Center

S.B. 840  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law prohibits the use of an unmanned aircraft to capture an image of an individual or privately owned real property in this state "with the intent to conduct surveillance on the individual or property captured in the image." The introduced version of the bill that created this provision—H.B. 912, 83rd Legislature, Regular Session, 2013—included an exception which provided that it would be a "defense to prosecution" that an image was captured within 25 miles of the border "for the sole purpose of enforcing border laws." Oddly, however, the version of the bill that ultimately passed, and the current law today, break this exception in two: current law contains a law-enforcement exception and a blanket exception for images captured within 25 miles of the border, regardless of purpose. Under current law, then, it would appear to be entirely lawful for any person for any reason to "use an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image," provided the person or property is within 25 miles of the border.

It is difficult to conceive of any legitimate policy goal that would justify subjecting the more-than one million Texans living near the border to arbitrary drone surveillance of themselves or their properties, especially because any legitimate border security operation would be covered by the current law enforcement exception. Accordingly, S.B. 840 would strike this needless and discriminatory exception from the current law. (Original Author's / Sponsor's Statement of Intent)

S.B. 840 amends current law relating to certain images captured by an unmanned aircraft.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 423.002(a), Government Code, as follows:

(a) Provides that it is lawful to capture an image using an unmanned aircraft in this state:

(1) through (4) makes no changes to these subdivisions;

(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) through (D) makes conforming changes.

(6) and (7) makes no changes to these subdivisions;

(8) if the image is captured by a law enforcement authority or certain persons associated with a law enforcement authority, among certain other purposes, 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. Makes nonsubstantive changes;

(9) through (13) makes no changes to these subdivisions;

(14) through (18) redesignates existing Subdivisions (15) through (19) as Subdivisions (14) through (18) and makes no further changes to these subdivisions;

(19) and (20) redesignates existing Subdivisions (20) and (21) as Subdivisions (19) and (20) and makes nonsubstantive changes;

(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.

Deletes text of existing Subdivision (14) providing that it is lawful to capture an image using an unmanned aircraft in this state of real property or a person on real property that is within 25 miles of the United States border.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.