

1-1 By: Zaffirini S.B. No. 838  
 1-2 (In the Senate - Filed February 13, 2017; February 27, 2017,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 12, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 1; April 12, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 838 By: Zaffirini

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to certain images captured by an unmanned aircraft.  
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-23 SECTION 1. Section 423.002(a), Government Code, is amended  
 1-24 to read as follows:  
 1-25 (a) It is lawful to capture an image using an unmanned  
 1-26 aircraft in this state:  
 1-27 (1) for the purpose of professional or scholarly  
 1-28 research and development or for another academic purpose by a  
 1-29 person acting on behalf of an institution of higher education or a  
 1-30 private or independent institution of higher education, as those  
 1-31 terms are defined by Section 61.003, Education Code, including a  
 1-32 person who:  
 1-33 (A) is a professor, employee, or student of the  
 1-34 institution; or  
 1-35 (B) is under contract with or otherwise acting  
 1-36 under the direction or on behalf of the institution;  
 1-37 (2) in airspace designated as a test site or range  
 1-38 authorized by the Federal Aviation Administration for the purpose  
 1-39 of integrating unmanned aircraft systems into the national  
 1-40 airspace;  
 1-41 (3) as part of an operation, exercise, or mission of  
 1-42 any branch of the United States military;  
 1-43 (4) if the image is captured by a satellite for the  
 1-44 purposes of mapping;  
 1-45 (5) if the image is captured by or for an electric or  
 1-46 natural gas utility:  
 1-47 (A) for operations and maintenance of utility  
 1-48 facilities for the purpose of maintaining utility system  
 1-49 reliability and integrity;  
 1-50 (B) for inspecting utility facilities to  
 1-51 determine repair, maintenance, or replacement needs during and  
 1-52 after construction of such facilities;  
 1-53 (C) for assessing vegetation growth for the  
 1-54 purpose of maintaining clearances on utility easements; and  
 1-55 (D) for utility facility routing and siting for  
 1-56 the purpose of providing utility service;  
 1-57 (6) with the consent of the individual who owns or  
 1-58 lawfully occupies the real property captured in the image;  
 1-59 (7) pursuant to a valid search or arrest warrant;  
 1-60 (8) if the image is captured by a law enforcement

2-1 authority or a person who is under contract with or otherwise acting  
 2-2 under the direction or on behalf of a law enforcement authority:  
 2-3 (A) in immediate pursuit of a person law  
 2-4 enforcement officers have reasonable suspicion or probable cause to  
 2-5 suspect has committed an offense, not including misdemeanors or  
 2-6 offenses punishable by a fine only;  
 2-7 (B) for the purpose of documenting a crime scene  
 2-8 where an offense, not including misdemeanors or offenses punishable  
 2-9 by a fine only, has been committed;  
 2-10 (C) for the purpose of investigating the scene  
 2-11 of:  
 2-12 (i) a human fatality;  
 2-13 (ii) a motor vehicle accident causing death  
 2-14 or serious bodily injury to a person; or  
 2-15 (iii) any motor vehicle accident on a state  
 2-16 highway or federal interstate or highway;  
 2-17 (D) in connection with the search for a missing  
 2-18 person;  
 2-19 (E) for the purpose of conducting a high-risk  
 2-20 tactical operation that poses a threat to human life; or  
 2-21 (F) of private property that is generally open to  
 2-22 the public where the property owner consents to law enforcement  
 2-23 public safety responsibilities;  
 2-24 (9) if the image is captured by state or local law  
 2-25 enforcement authorities, or a person who is under contract with or  
 2-26 otherwise acting under the direction or on behalf of state  
 2-27 authorities, for the purpose of:  
 2-28 (A) surveying the scene of a catastrophe or other  
 2-29 damage to determine whether a state of emergency should be  
 2-30 declared;  
 2-31 (B) preserving public safety, protecting  
 2-32 property, or surveying damage or contamination during a lawfully  
 2-33 declared state of emergency; or  
 2-34 (C) conducting routine air quality sampling and  
 2-35 monitoring, as provided by state or local law;  
 2-36 (10) at the scene of a spill, or a suspected spill, of  
 2-37 hazardous materials;  
 2-38 (11) for the purpose of fire suppression;  
 2-39 (12) for the purpose of rescuing a person whose life or  
 2-40 well-being is in imminent danger;  
 2-41 (13) if the image is captured by a Texas licensed real  
 2-42 estate broker in connection with the marketing, sale, or financing  
 2-43 of real property, provided that no individual is identifiable in  
 2-44 the image;  
 2-45 (14) of real property or a person on real property that  
 2-46 is within 25 miles of the United States border;  
 2-47 (15) from a height no more than eight feet above ground  
 2-48 level in a public place, if the image was captured without using any  
 2-49 electronic, mechanical, or other means to amplify the image beyond  
 2-50 normal human perception;  
 2-51 (16) of public real property or a person on that  
 2-52 property;  
 2-53 (17) if the image is captured by the owner or operator  
 2-54 of an oil, gas, water, or other pipeline for the purpose of  
 2-55 inspecting, maintaining, or repairing pipelines or other related  
 2-56 facilities, and is captured without the intent to conduct  
 2-57 surveillance on an individual or real property located in this  
 2-58 state;  
 2-59 (18) in connection with oil pipeline safety and rig  
 2-60 protection;  
 2-61 (19) in connection with port authority surveillance  
 2-62 and security;  
 2-63 (20) if the image is captured by a registered  
 2-64 professional land surveyor in connection with the practice of  
 2-65 professional surveying, as those terms are defined by Section  
 2-66 1071.002, Occupations Code, provided that no individual is  
 2-67 identifiable in the image; ~~or~~  
 2-68 (21) if the image is captured by a professional  
 2-69 engineer licensed under Subchapter G, Chapter 1001, Occupations

3-1 Code, in connection with the practice of engineering, as defined by  
3-2 Section 1001.003, Occupations Code, provided that no individual is  
3-3 identifiable in the image; or

3-4 (22) if the image is:

3-5 (A) captured for the purpose of delivering  
3-6 consumer goods that were ordered through an Internet website or  
3-7 mobile application and the operator of the unmanned aircraft is  
3-8 authorized by the Federal Aviation Administration to conduct  
3-9 operations within the airspace from which the image is captured;  
3-10 and

3-11 (B) directly related to the purpose described by  
3-12 Paragraph (A), including images captured for purposes of navigation  
3-13 or ensuring public safety.

3-14 SECTION 2. This Act takes effect September 1, 2017.

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