

By: Gooden

H.B. No. 912

A BILL TO BE ENTITLED

AN ACT

relating to images captured by unmanned vehicles and aircraft;  
providing penalties.

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

SECTION 1. This Act shall be known as the Texas Privacy Act.

SECTION 2. Subtitle B, Title 4, Government Code, is amended  
by adding Chapter 423 to read as follows:

CHAPTER 423. USE OF UNMANNED VEHICLES AND AIRCRAFT

Sec. 423.001. DEFINITION. In this chapter, "image" means  
any capturing of sound waves, thermal, infrared, ultraviolet,  
visible light, or other electromagnetic waves, odor, or other  
conditions existing on or about real property or an individual  
located on that property.

Sec. 423.002. OFFENSE: ILLEGAL USE OF UNMANNED VEHICLE OR  
AIRCRAFT TO CAPTURE IMAGE. (a) A person commits an offense if the  
person uses or authorizes the use of an unmanned vehicle or aircraft  
to capture an image without the express consent of the person who  
owns or lawfully occupies the real property captured in the image.

(b) An offense under this section is a Class C misdemeanor.

(c) It is a defense to prosecution under this section that  
the image was captured:

(1) pursuant to a valid search or arrest warrant;

(2) by a law enforcement authority in immediate  
pursuit of a person law enforcement officers have probable cause to

1 suspect has committed a felony;

2 (3) for the purpose of fire suppression or rescuing a  
3 person whose life is in imminent danger;

4 (4) of real property or a person on real property that  
5 is within 25 miles of the United States border for the sole purpose  
6 of enforcing border laws;

7 (5) without magnification or other enhancement from no  
8 more than six feet above ground level in a public place; or

9 (6) of public real property or a person on that  
10 property.

11 Sec. 423.003. OFFENSE: POSSESSION, DISCLOSURE, DISPLAY,  
12 DISTRIBUTION, OR USE OF IMAGE. (a) A person commits an offense if  
13 the person possesses, discloses, displays, distributes, or  
14 otherwise uses an image:

15 (1) that was captured in violation of Section 423.002;  
16 or

17 (2) for any purpose other than a purpose for which  
18 there is a defense to prosecution under Section 423.002.

19 (b) An offense under this section for the possession of an  
20 image is a Class C misdemeanor.

21 (c) Each image a person possesses, discloses, displays,  
22 distributes, or otherwise uses in violation of this section is a  
23 separate offense. An offense under this section for the  
24 disclosure, display, distribution, or other use of an image is a  
25 Class B misdemeanor.

26 (d) It is a defense to prosecution under this section for  
27 the possession of an image that the person destroyed the image as

1 soon as the person had knowledge that the image was captured in  
2 violation of Section 423.002.

3 Sec. 423.004. ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT  
4 SUBJECT TO DISCLOSURE. (a) Except as otherwise provided by  
5 Subsection (b), an image captured in violation of Section 423.002,  
6 or an image captured by an unmanned vehicle or aircraft that was  
7 incidental to the capturing of an image for a purpose for which  
8 there is a defense to prosecution under Section 423.002:

9 (1) may not be used as evidence in any criminal or  
10 juvenile proceeding, civil action, or administrative proceeding;

11 (2) is not subject to disclosure, inspection, or  
12 copying under Chapter 552; and

13 (3) is not subject to discovery, subpoena, or other  
14 means of legal compulsion for its release.

15 (b) An image described by Subsection (a) may be disclosed  
16 and used as evidence to prove a violation of this chapter, and is  
17 subject to discovery, subpoena, or other means of legal compulsion  
18 for that purpose.

19 Sec. 423.005. CIVIL ACTION. (a) A person who is, or a  
20 person who owns or legally occupies real property that is, the  
21 subject of an image captured, possessed, disclosed, displayed,  
22 distributed, or otherwise used in violation of this chapter may  
23 bring an action to:

24 (1) enjoin a violation or threatened violation of  
25 Section 423.002 or 423.003; and

26 (2) recover a civil penalty.

27 (b) If it is found in a civil action that a person has

1 violated Section 423.002 or 423.003, the person is liable for:

2 (1) a civil penalty of \$1,000, subject to adjustment  
3 of the dollar amount under Section 423.006, for each image of the  
4 plaintiff or of the real property owned or legally occupied by the  
5 plaintiff that is captured, possessed, disclosed, displayed,  
6 distributed, or otherwise used; and

7 (2) court costs and reasonable attorney's fees  
8 incurred by the plaintiff.

9 Sec. 423.006. ADJUSTMENT OF AMOUNT OF CIVIL PENALTY. (a)  
10 The consumer credit commissioner shall annually compute and publish  
11 the dollar amount instead of that specified by Section  
12 423.005(b)(1) to reflect inflation.

13 (b) In making the computation under Subsection (a), the  
14 consumer credit commissioner shall consider the United States  
15 Bureau of Labor Statistics Consumer Price Index for All Urban  
16 Consumers and may consider another index adopted by rule of the  
17 Finance Commission of Texas.

18 (c) The consumer credit commissioner shall use 2013 as the  
19 base year and adjust the dollar amounts, effective on July 1 of each  
20 year.

21 (d) The consumer credit commissioner shall make available  
22 to the public information regarding adjustments made under this  
23 section.

24 SECTION 3. This Act takes effect September 1, 2013.