



The National Agricultural Law Center

nationalaglawcenter.org | nataglaw@uark.edu | [@nataglaw](https://twitter.com/nataglaw)

States' Unmanned Aerial Vehicle Laws: *Texas*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

States' Unmanned Aerial Vehicle Laws: Texas

TX GOVT ST § 423.002

TX GOVT ST § 423.003

TX GOVT ST § 423.005

Current through November 20, 2022

TX GOVT ST § 423.002 Non-applicability

- (a) It is lawful to capture an image using an unmanned aircraft in this state:
- (1) for the purpose of professional or scholarly research and development or for another academic purpose 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 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) for inspecting utility or telecommunications 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 or telecommunications easements; and
 - (D) for utility or telecommunications facility routing and siting for the purpose of providing utility or telecommunications 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;

(F) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities; or

(G) 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;

(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) 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;
- (15) of public real property or a person on that property;
 - (16) 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;
 - (17) in connection with oil pipeline safety and rig protection;
 - (18) in connection with port authority surveillance and security;
 - (19) 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;
 - (20) if the image is captured by a professional engineer licensed under Subchapter G, Chapter 1001, Occupations Code¹, in connection with the practice of engineering, as defined by Section 1001.003, Occupations Code, provided that no individual is identifiable in the image; or
 - (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.
- (b) This chapter does not apply to the manufacture, assembly, distribution, or sale of an unmanned aircraft.

TX GOVT ST § 423.003 Offense: Illegal Use of Unmanned Aircraft to Capture Image

- (a) A person commits an offense if the person uses 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.
- (b) An offense under this section is a Class C misdemeanor.
- (c) It is a defense to prosecution under this section that the person destroyed the image:
 - (1) as soon as the person had knowledge that the image was captured in violation of this section; and
 - (2) without disclosing, displaying, or distributing the image to a third party.
- (d) In this section, "intent" has the meaning assigned by Section 6.03, Penal Code..



TX GOVT ST § 423.005 Illegally or Incidentally Captured Images Not Subject to Disclosure

(a) Except as otherwise provided by Subsection (b), an image captured in violation of Section 423.003, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image:

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

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

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

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

