

By the Committee on Criminal Justice; and Senator Richter

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1 A bill to be entitled
2 An act relating to drone privacy; creating s. 330.60,
3 F.S.; providing a short title; defining terms;
4 specifying situations in or purposes for which it is
5 lawful to capture an image with a drone; prohibiting
6 the use of a drone to capture an image of an
7 individual or privately owned real property in certain
8 circumstances; prohibiting the possession, disclosure,
9 display, distribution, or use of such illegally
10 captured images; providing exceptions; providing
11 applicability; requiring the Department of
12 Transportation to review the potential impact on
13 public safety from commercial applications of unmanned
14 aerial systems and submit a report, in coordination
15 with the Office of Insurance Regulation, to the
16 Governor and the Legislature by a certain date;
17 specifying that this act only applies to images
18 captured after a specified date; providing
19 severability; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 330.60, Florida Statutes, is created to
24 read:

25 330.60 Unmanned aerial systems.-

26 (1) SHORT TITLE.-This act may be cited as the "Florida
27 Privacy Act."

28 (2) DEFINITIONS.-As used in this section, the term:

29 (a) "Conduct surveillance" means to monitor, track, or

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30 follow another person with the intent to intrude on the
31 solitude, seclusion, or privacy of a person or a person's
32 property, if the intrusion is the primary intent and effect, and
33 the use is not incidental to an otherwise lawful use.

34 (b) "Drone" has the same meaning as provided in s. 934.50.

35 (c) "Image" means any capturing of sound waves; thermal,
36 infrared, ultraviolet, or visible light; or other
37 electromagnetic waves or odor or other conditions existing on or
38 about real property in this state or of an individual located on
39 that property.

40 (3) LAWFUL USES.—It is lawful to capture an image using a
41 drone in this state:

42 (a) For purposes of professional or scholarly research and
43 development by a person acting on behalf of a college or
44 university, as defined in s. 1005.02, including a person who is:

45 1. A professor, employee, or student of the college or
46 university; or

47 2. Under contract with or otherwise acting under the
48 direction or on behalf of the college or university;

49 (b) In airspace designated as a test site or range
50 authorized by the Federal Aviation Administration for the
51 purpose of integrating drone systems into the national airspace;

52 (c) As part of an operation, an exercise, or a mission of
53 any branch of the United States military;

54 (d) For the purpose of mapping by a satellite or by a drone
55 operating as a commercial service authorized by the Federal
56 Aviation Administration or under regulation adopted by the
57 administration for commercial use;

58 (e) If the image is captured by or for an electric or

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59 natural gas utility for:

60 1. Operating and maintaining utility facilities, including
61 facilities used in the generation, transmission, or distribution
62 of electricity, gas, or water for the purpose of ensuring
63 utility system reliability and integrity;

64 2. Inspecting utility facilities to determine repair,
65 maintenance, or replacement needs during and after construction
66 of such facilities;

67 3. Assessing vegetation growth for the purpose of
68 maintaining clearances on utility easements or rights-of-way;

69 4. Utility facility routing, siting, or permitting for the
70 purpose of constructing utility facilities or providing utility
71 service;

72 5. Inspecting utility facilities to determine construction,
73 repair, maintenance, or replacement needs before, during, and
74 after construction of such facilities; or

75 6. Conducting environmental monitoring, as provided by
76 federal, state, or local law, rule, or permit;

77 (f) With the consent of the individual who owns or lawfully
78 occupies the real property captured in the image;

79 (g) If the image is captured by a law enforcement agency in
80 compliance with s. 934.50(4);

81 (h) If the image is captured by state or local law
82 enforcement authorities, or a person who is under contract with
83 or otherwise acting under the direction or on behalf of such
84 authorities, for the purpose of:

85 1. Surveying the scene of a catastrophe or other damage to
86 determine whether a state of emergency should be declared;
87 before, during, and after manmade or natural disasters; or in

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88 exercises with local, state, or federal organizations that have
89 emergency management roles and missions;

90 2. Preserving public safety, protecting property, or
91 surveying damage or contamination during a lawfully declared
92 state of emergency; or

93 3. Conducting routine air quality sampling and monitoring,
94 as provided by state or local law;

95 (i) At the scene of a spill, or a suspected spill, of
96 hazardous materials;

97 (j) For the purpose of fire suppression;

98 (k) For the purpose of rescuing a person whose life or
99 well-being is in imminent danger;

100 (l) If the image is captured by a real estate broker
101 licensed in this state in connection with the marketing, sale,
102 or financing of real property, provided that no individual is
103 identifiable in the image;

104 (m) Of real property or a person on real property that is
105 within 25 miles of the United States border;

106 (n) From a height of no more than 8 feet above ground level
107 in a public place, if the image was captured without using any
108 electronic, mechanical, or other means to amplify the image
109 beyond normal human perception;

110 (o) Of public real property or a person on such property;

111 (p) If the image is captured by the owner or operator of an
112 oil, gas, water, or other pipeline for the purpose of
113 inspecting, maintaining, or repairing the pipeline or other
114 related facility, provided that the image is captured without
115 the intent to conduct surveillance on an individual or real
116 property located in this state;

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117 (q) In connection with oil pipeline safety and rig
118 protection;

119 (r) In connection with port authority surveillance and
120 security;

121 (s) If the image is captured in connection with a claim
122 handling or underwriting practice or procedure of a Florida
123 licensed insurer, an eligible surplus lines insurer, an
124 accredited reinsurer, or a joint underwriting association;

125 (t) If the image is captured by the owner or developer of
126 real property in connection with the development, marketing,
127 sale, or financing of such real property, provided that no
128 individual is identifiable in the image;

129 (u) For any other lawful commercial use by a commercial
130 entity; or

131 (v) As a part of a commercial drone service that is lawful
132 and permitted under federal law or with authorization from the
133 Federal Aviation Administration.

134 (4) ILLEGAL USE OF DRONE TO CAPTURE IMAGE.—Except as
135 provided in subsection (3), a person may not use a drone to
136 capture an image of an individual or privately owned real
137 property in this state with the intent to conduct surveillance
138 on the individual or property captured in the image.

139 (5) POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE
140 OF IMAGE.—A person may not:

141 (a) Capture an image in violation of subsection (4);
142 and

143 (b) Possess, disclose, display, distribute, or otherwise
144 use that image.

145 (6) ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT SUBJECT

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146 TO DISCLOSURE.—

147 (a) Except as otherwise provided in paragraph (b), an image
148 captured in violation of subsection (4), or an image captured by
149 a drone which was incidental to the lawful capturing of an
150 image:

151 1. May not be used as evidence in any criminal or juvenile
152 proceeding, civil action, or administrative proceeding; and

153 2. Is not subject to discovery, subpoena, or other means of
154 legal compulsion for its release.

155 (b) An image described in paragraph (a) may be disclosed
156 and used as evidence in a prosecution for any violation of this
157 section and is subject to discovery, subpoena, or other means of
158 legal compulsion for that purpose.

159 (7) APPLICABILITY.—This section does not apply to the
160 manufacture, assembly, distribution, or sale of a drone.

161 (8) REPORT.—The Department of Transportation is directed to
162 review potential impacts on public safety originating from
163 commercial applications of unmanned aerial systems. The
164 department, in coordination with the Office of Insurance
165 Regulation, is directed to make recommendations addressing the
166 appropriate amount of liability insurance to be carried by
167 operators of unmanned aerial systems used in commercial
168 applications in this state. The department shall submit a report
169 to the Governor, the President of the Senate, and the Speaker of
170 the House of Representatives by January 1, 2016, outlining the
171 department's and the office's recommendations.

172 Section 2. Section 330.60, Florida Statutes, as created by
173 this act, applies only to images captured on or after October 1,
174 2015.

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175 Section 3. If any provision of this act or its application
176 to any person or circumstance is held invalid, the invalidity
177 does not affect other provisions or applications of the act
178 which can be given effect without the invalid provision or
179 application, and to this end the provisions of this act are
180 severable.

181 Section 4. This act shall take effect October 1, 2015.