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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/14/2015	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

330.60 Unmanned Aerial Systems.—

(1) SHORT TITLE.—This act may be cited as the “Florida
Privacy Act.”

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



133542

- 11 (a) "Drone" has the same meaning as provided in s. 934.50.
- 12 (b) "Image" means any capturing of sound waves; thermal,
13 infrared, ultraviolet, or visible light; or other
14 electromagnetic waves or odor or other conditions existing on or
15 about real property in this state or an individual located on
16 that property.
- 17 (3) LAWFUL USES.—It is lawful to capture an image using a
18 drone in this state:
- 19 (a) For purposes of professional or scholarly research and
20 development by a person acting on behalf of a college or
21 university, as defined in s. 1005.02, including a person who is:
- 22 1. A professor, employee, or student of the college or
23 university; or
- 24 2. Under contract with or otherwise acting under the
25 direction or on behalf of the college or university;
- 26 (b) In airspace designated as a test site or range
27 authorized by the Federal Aviation Administration for the
28 purpose of integrating drone systems into the national airspace;
- 29 (c) As part of an operation, an exercise, or a mission of
30 any branch of the United States military;
- 31 (d) If the image is captured by a satellite for the purpose
32 of mapping;
- 33 (e) If the image is captured by or for an electric or
34 natural gas utility for:
- 35 1. Operating and maintaining utility facilities, including
36 facilities used in the generation, transmission, or distribution
37 of electricity, gas, or water for the purpose of ensuring
38 utility system reliability and integrity;
- 39 2. Inspecting utility facilities to determine repair,



133542

40 maintenance, or replacement needs during and after construction
41 of such facilities;

42 3. Assessing vegetation growth for the purpose of
43 maintaining clearances on utility easements or right-of-ways;

44 4. Utility facility routing, siting, or permitting for the
45 purpose of constructing utility facilities or providing utility
46 service;

47 5. Inspecting utility facilities to determine construction,
48 repair, maintenance, or replacement needs before, during, and
49 after construction of such facilities;

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

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

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

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

60 1. Surveying the scene of a catastrophe or other damage to
61 determine whether a state of emergency should be declared, use
62 of drones before, during, and after manmade or natural
63 disasters, or in exercises with local, state, or federal
64 organizations that have emergency management roles and missions;

65 2. Preserving public safety, protecting property, or
66 surveying damage or contamination during a lawfully declared
67 state of emergency; or

68 3. Conducting routine air quality sampling and monitoring,



133542

69 as provided by state or local law;
70 (i) At the scene of a spill, or a suspected spill, of
71 hazardous materials;
72 (j) For the purpose of fire suppression;
73 (k) For the purpose of rescuing a person whose life or
74 well-being is in imminent danger;
75 (l) If the image is captured by a real estate broker
76 licensed in this state in connection with the marketing, sale,
77 or financing of real property, provided that no individual is
78 identifiable in the image;
79 (m) Of real property or a person on real property that is
80 within 25 miles of the United States border;
81 (n) From a height of no more than 8 feet above ground level
82 in a public place, if the image was captured without using any
83 electronic, mechanical, or other means to amplify the image
84 beyond normal human perception;
85 (o) Of public real property or a person on such property;
86 (p) If the image is captured by the owner or operator of an
87 oil, gas, water, or other pipeline for the purpose of
88 inspecting, maintaining, or repairing the pipeline or other
89 related facility, provided that the image is captured without
90 the intent to conduct surveillance on an individual or real
91 property located in this state;
92 (q) In connection with oil pipeline safety and rig
93 protection;
94 (r) In connection with port authority surveillance and
95 security;
96 (s) If the image is captured in connection with a claim
97 handling or underwriting practice or procedure of a Florida



133542

98 licensed insurer, an eligible surplus lines insurer, an
99 accredited reinsurer, or a joint underwriting association; or

100 (t) If the image is captured by the owner or developer of
101 real property in connection with the development, marketing,
102 sale, or financing of such real property, provided that no
103 individual is identifiable in the image.

104 (4) ILLEGAL USE OF DRONE TO CAPTURE IMAGE.-

105 (a) Except as provided in subsection (3), a person may not
106 use a drone to capture an image of an individual or privately
107 owned real property in this state with the intent to conduct
108 surveillance on the individual or property captured in the
109 image.

110 (b) A violation of this subsection is a misdemeanor of the
111 second degree, punishable as provided in s. 775.082 or s.
112 775.083.

113 (c) It is a defense to prosecution under this subsection
114 that the person destroys the image as soon as the person has
115 knowledge that the image is captured in violation of this
116 subsection and that the person does so without disclosing,
117 displaying, or distributing the image to a third party.

118 (5) POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE
119 OF IMAGE.-

120 (a) A person may not:

121 1. Capture an image in violation of subsection (4);

122 and

123 2. Possess, disclose, display, distribute, or otherwise use
124 that image.

125 (b)1. A violation of paragraph (a) for the possession of an
126 image is a misdemeanor of the second degree, punishable as



133542

127 provided in s. 775.082 or s. 775.083.

128 2. A violation of paragraph (a) for the disclosure,
129 display, distribution, or other use of an image is a misdemeanor
130 of the first degree, punishable as provided in s. 775.082 or s.
131 775.083.

132 (c) Each image that a person possesses, discloses,
133 displays, distributes, or otherwise uses in violation of this
134 subsection is a separate offense.

135 (d) It is a defense to prosecution under this subsection
136 for the possession of an image that the person destroys the
137 image as soon as the person has knowledge that the image is
138 captured in violation of subsection (4).

139 (e) It is a defense to prosecution under this subsection
140 for the disclosure, display, distribution, or other use of an
141 image that the person stops disclosing, displaying,
142 distributing, or otherwise using the image as soon as the person
143 has knowledge that the image is captured in violation of
144 subsection (4).

145 (6) ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT SUBJECT
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



133542

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) CIVIL ACTION.-

160 (a) An owner or tenant of a privately owned real property
161 located in this state may bring against a person, who in
162 violation of subsection (4) captured an image of the property or
163 the owner or tenant while on the property, an action to:

164 1. Enjoin a violation or imminent violation of subsection
165 (4) or subsection (5).

166 2. Recover a civil penalty of:

167 a. Five thousand dollars for all images captured in a
168 single episode in violation of subsection (4); or

169 b. Ten thousand dollars for disclosure, display,
170 distribution, or other use of all images captured in a single
171 episode in violation of subsection (5).

172 3. Recover actual damages if the person who captured the
173 image in violation of subsection (4) discloses, displays, or
174 distributes the image with malice.

175 (b) For purposes of recovering the civil penalty or actual
176 damages under paragraph (a), all owners of a parcel of real
177 property are considered to be a single owner and all tenants of
178 a parcel of real property are considered to be a single tenant.

179 (c) In addition to any civil penalties authorized under
180 this subsection, the court shall award court costs and
181 reasonable attorney fees to the prevailing party.

182 (d) Notwithstanding s. 95.11, an action brought under this
183 subsection must be commenced within 2 years after the date that
184 the image was:



133542

185 1. Captured in violation of subsection (4); or
186 2. Initially disclosed, displayed, distributed, or
187 otherwise used in violation of subsection (5).

188 (8) APPLICABILITY.—This section does not apply to the
189 manufacture, assembly, distribution, or sale of a drone.

190 Section 2. Section 330.60, Florida Statutes, as created by
191 this act, applies only to images captured on or after October 1,
192 2015.

193 Section 3. If any provision of this act or its application
194 to any person or circumstance is held invalid, the invalidity
195 does not affect other provisions or applications of the act
196 which can be given effect without the invalid provision or
197 application, and to this end the provisions of this act are
198 severable.

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

201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete everything before the enacting clause
204 and insert:

205 A bill to be entitled
206 An act relating to drone privacy; creating s. 330.60,
207 F.S.; providing a short title; defining terms;
208 specifying situations in which it is lawful to capture
209 an image with a drone; prohibiting the capture of an
210 image of an individual or privately owned real
211 property using a drone in certain circumstances;
212 providing penalties; providing a defense to
213 prosecution; prohibiting the possession, disclosure,



133542

214 display, distribution, or use of such illegally
215 captured images; providing penalties; providing
216 defenses to prosecution; prohibiting the use or
217 discovery of such images in legal proceedings;
218 providing exceptions; providing for civil actions for
219 damages relating to violations; providing for court
220 costs and attorney fees; specifying a limitations
221 period for such actions; providing applicability;
222 providing severability; providing an effective date.