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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 03/26/2015 | . | |
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The Committee on Judiciary (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 100
and insert:
property or of the owner, tenant, occupant, invitee, or licensee
of such property with the intent to conduct surveillance on the
individual or property captured in the image in violation of
such person's reasonable expectation of privacy without his or
her written consent. For purposes of this section, a person is
presumed to have a reasonable expectation of privacy on his or
her privately owned or occupied real property if he or she is



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12 not observable by persons located at ground level in a place
13 where they have a legal right to be, regardless of whether he or
14 she is observable from the air with the use of a drone. This
15 paragraph is not intended to limit or restrict the application
16 of federal law to the use of drones for surveillance purposes.

17 (4) EXCEPTIONS.—This act does not prohibit the use of a
18 drone:

19 (a) To counter a high risk of a terrorist attack by a
20 specific individual or organization if the United States
21 Secretary of Homeland Security determines that credible
22 intelligence indicates that there is such a risk.

23 (b) If the law enforcement agency first obtains a search
24 warrant signed by a judge authorizing the use of a drone.

25 (c) If the law enforcement agency possesses reasonable
26 suspicion that, under particular circumstances, swift action is
27 needed to prevent imminent danger to life or serious damage to
28 property, to forestall the imminent escape of a suspect or the
29 destruction of evidence, or to achieve purposes including, but
30 not limited to, facilitating the search for a missing person.

31 (d) By a person or entity engaged in a business or
32 profession licensed by the state, or by an agent, employee, or
33 contractor thereof, if the drone is used only to perform
34 reasonable tasks within the scope of practice or activities
35 permitted under such person's or entity's license.

36 (e) By an employee or contractor of a property appraiser
37 who uses a drone solely for the purpose of assessing property
38 for ad valorem taxation.

39 (5) REMEDIES FOR VIOLATION.—

40 (a) An aggrieved party may initiate a civil action against



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41 a law enforcement agency to obtain all appropriate relief in
42 order to prevent or remedy a violation of this act.

43 (b) The owner, tenant, occupant, invitee, or licensee of
44 privately owned or occupied real property may initiate a civil
45 action for compensatory damages for violations of this section
46 and may seek injunctive relief to prevent future violations of
47 this section against a person, state agency, or political
48 subdivision that violates paragraph (3) (b). In such action, the
49 prevailing party is entitled to recover reasonable attorney fees
50 from the nonprevailing party based on the actual and reasonable
51 time expended by his or her attorney billed at an appropriate
52 hourly rate and, in cases in which the payment of such a fee is
53 contingent on the outcome, without a multiplier, unless the
54 action is tried to verdict, in which case a multiplier of up to
55 twice the actual value of the time expended may be awarded in
56 the discretion of the trial court.

57 (c) Punitive damages for a violation of paragraph (3) (b)
58 may be sought against a person subject to other requirements and
59 limitations of law, including, but not limited to, part II of
60 chapter 768 and case law.

61 (d) The remedies provided for a violation of paragraph
62 (3) (b) are cumulative to

63
64 ===== T I T L E A M E N D M E N T =====

65 And the title is amended as follows:

66 Delete lines 6 - 15

67 and insert:

68 property or of the owner, tenant, occupant, invitee,
69 or licensee of such property with the intent to



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70 conduct surveillance without his or her written
71 consent if a reasonable expectation of privacy exists;
72 specifying when a reasonable expectation of privacy
73 may be presumed; authorizing the use of a drone by a
74 person or entity engaged in a business or profession
75 licensed by the state in certain circumstances;
76 authorizing the use of a drone by an employee or
77 contractor of a property appraiser for the purpose of
78 assessing property for ad valorem taxation; providing
79 that an owner, tenant, occupant, invitee, or licensee
80 may initiate a civil action for compensatory damages
81 and may seek injunctive relief against a person, a
82 state agency, or a political subdivision that violates
83 the act; providing for construction; providing for the
84 recovery of attorney fees and