

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

HOUSE BILL 1079

4
5 By: Representative Harris

For An Act To Be Entitled

8 AN ACT CONCERNING THE USE OF AN UNMANNED VEHICLE OR
9 AIRCRAFT THAT CAPTURES IMAGES; TO CREATE THE CRIMINAL
10 OFFENSES; TO PROVIDE FOR CIVIL LIABILITY; AND FOR
11 OTHER PURPOSES.

Subtitle

15 CONCERNING THE USE OF AN UNMANNED VEHICLE
16 OR AIRCRAFT THAT CAPTURES IMAGES; TO
17 CREATE THE CRIMINAL OFFENSES; TO PROVIDE
18 FOR CIVIL LIABILITY.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code Title 5, Chapter 60, Subchapter 1, is amended
24 to add a new section to read as follows:

25 5-60-103. Unlawful use of an unmanned vehicle or aircraft to capture
26 an image.

27 (a) As used in this section, "image" means:

28 (1) Sound waves;

29 (2) Thermal, infrared, ultraviolet, or visible light or other
30 electromagnetic waves;

31 (3) Odor; or

32 (4) Other conditions existing on or about real property or the
33 appearance of an individual located on the real property.

34 (b) A person commits the offense of unlawful use of an unmanned
35 vehicle or aircraft to capture an image if the person knowingly uses or
36 authorizes the use of an unmanned vehicle or aircraft to capture an image.



1 (c) Unlawful use of an unmanned vehicle or aircraft to capture an
 2 image is a Class C misdemeanor.

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

5 (1) With the express consent of the person who owns or lawfully
 6 occupies the real property;

7 (2) Pursuant to a valid search warrant or arrest warrant;

8 (3) By a law enforcement officer or law enforcement agency in
 9 immediate pursuit of a person the law enforcement officer or law enforcement
 10 agency has probable cause to suspect has committed a felony;

11 (4) For the purpose of fire suppression or rescuing a person
 12 whose life is in imminent danger;

13 (5) Without magnification or other enhancement and from no more
 14 than six feet (6') above ground level in a public place; or

15 (6) On real property that was public.

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 17 SECTION 2. Arkansas Code Title 5, Chapter 60, Subchapter 1, is amended
 18 to add a new section to read as follows:

19 5-60-104. Unlawful possession or distribution of an image captured
 20 unlawfully by an unmanned vehicle or aircraft.

21 (a) As used in this section, "distribute" means to disclose, display,
 22 or otherwise reveal to a person.

23 (b)(1) A person commits the offense of unlawful possession or
 24 distribution of an image captured unlawfully by an unmanned vehicle or
 25 aircraft if the person knowingly possesses or distributes an image that was
 26 captured by an unmanned vehicle or aircraft in violation of § 5-60-103.

27 (2) Each image a person possesses or distributes in violation of
 28 this section is a separate offense.

29 (c) Unlawful possession or distribution of an image captured
 30 unlawfully by an unmanned vehicle or aircraft is a:

31 (1) Class C misdemeanor if the person only possessed an image;
 32 or

33 (2) Class B misdemeanor if the person distributed an image.

34 (d) It is a defense to prosecution under this section that a person
 35 who possessed an image destroyed the image as soon as he or she had knowledge
 36 that the image was captured in violation of § 5-60-103.

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 2 SECTION 3. Arkansas Code Title 16, Chapter 118, is amended to add a
 3 new section to read as follows:

4 16-118-111. Civil action for damages and equitable relief for
 5 violations of prohibition against certain uses of an unmanned vehicle or
 6 aircraft.

7 (a) A person who is the subject of or a person who owns or legally
 8 occupies real property that is the subject of an image captured, possessed,
 9 distributed, or otherwise used in violation of § 5-60-103 or § 5-60-104 may:

10 (1) Bring a civil action to enjoin a violation or threatened
 11 violation of § 5-60-103 or § 5-60-104; and

12 (2) File a civil action for damages.

13 (b) If it is found in a civil action that a person has violated § 5-
 14 60-103 or § 5-60-104, the person is liable for:

15 (1) A civil penalty of one thousand dollars (\$1,000) for each
 16 image of the plaintiff or of the real property owned or legally occupied by
 17 the plaintiff that was captured, possessed, distributed, or otherwise used;
 18 and

19 (2) Court costs and reasonable attorney's fees incurred by the
 20 plaintiff.

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