

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1079

By: Representative Harris

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

(1) Sound waves;

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

(3) Odor; or

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

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



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

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

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

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

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

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

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

(6) On real property that was public.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) File a civil action for damages.

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

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

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