

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

SENATE BILL 630

By: Simpson

AS INTRODUCED

An Act relating to robotic vehicle technology; defining terms; prohibiting certain image use; addressing private property rights; providing for certain penalty; prohibiting certain use in certain wildland fire; prohibiting entities from enacting certain laws; prohibiting flight within certain proximity of certain areas; allowing for certain use by law enforcement; allowing for certain use by pipeline and utility companies; allowing for certain use for agricultural producers; allowing for certain use for aerial mapping; allowing for certain notification for certain inspection; allowing for certain restrictions within certain jurisdiction; requiring report to the legislature; allowing for certain civil action; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 323 of Title 3, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Robotic vehicle" means any unmanned or uninhabited vehicle that is capable of either powered locomotion on the ground or powered flight in the air, or both, and that does not carry a human

1 operator on or in the vehicle. A robotic vehicle may be remotely
2 controlled or programmed to operate autonomously or on planned
3 routes.

4 2. "Image" means a record of thermal, infrared, ultraviolet,
5 visible light or other electromagnetic waves; sound waves; odors; or
6 other physical phenomena which captures conditions existing on or
7 about real property or an individual located on that property.

8 3. "Imaging device" means a mechanical, digital or electronic
9 viewing device; still camera; camcorder; motion picture camera; or
10 any other instrument, equipment or format capable of recording,
11 storing, or transmitting an image.

12 4. "Law enforcement" means a lawfully established state or
13 local public agency that is responsible for the prevention and
14 detection of crime, local government code enforcement and the
15 enforcement of penal, traffic, regulatory, game or controlled
16 substance laws.

17 5. "Surveillance" means:

18 a. with respect to an owner, tenant, occupant, invitee or
19 licensee of privately owned real property, the
20 observation of such persons with sufficient visual
21 clarity to be able to obtain information about their
22 identity, habits, conduct, movements or whereabouts,
23 or
24

1 b. with respect to privately owned real property, the
2 observation of such property's physical improvements
3 with sufficient visual clarity to be able to determine
4 unique identifying features or its occupancy by one or
5 more persons.

6 6. "Incident commander" means the government official or
7 employee in command of the response to a wildland fire.

8 7. "Sanctioned entity" includes a person that oversees, is
9 employed by, or is working under the direction of a government
10 entity, a telecommunications provider, a utility provider, the owner
11 or operator of a pipeline, an agricultural producer or news media.

12 B. A person, a state agency or a political subdivision may not
13 use a robotic vehicle equipped with an imaging device to record an
14 image of privately owned real property or of the owner, tenant,
15 occupant, invitee or licensee of such property with the intent to
16 conduct surveillance on the individual or property captured in the
17 image in violation of such person's reasonable expectation of
18 privacy without his or her written consent. For purposes of this
19 section, a person is presumed to have a reasonable expectation of
20 privacy on his or her privately owned real property, or a public
21 accommodation if he or she is not observable by persons located at
22 ground level in a place where they have a legal right to be,
23 regardless of whether he or she is observable from the air with the
24 use of a robotic device.

1 C. The following acts shall constitute a trespass upon the
2 surface of the property directly below for purposes of interpreting
3 applicable Oklahoma statutes and ordinances and adjudicating
4 property rights and claims:

5 1. Operation of a robotic vehicle at an altitude less than two
6 hundred (200) feet above ground level including on the surface of
7 the ground; or

8 2. Operation of a robotic vehicle at a distance of less than
9 fifty (50) feet from any structure that is taller than one hundred
10 fifty (150) feet above ground level.

11 Violation of this section shall constitute a misdemeanor
12 punishable by a fine of up to five hundred dollars (\$500.00)

13 D. A person may not operate a robotic vehicle within an area of
14 a wildland fire scene managed by a federal, state or local
15 government entity, unless the person operates the robotic device
16 with the permission of, and in accordance with the restrictions
17 established by the incident commander. A person, other than a
18 government official or a government employee acting within the
19 person's capacity as a government official or government employee,
20 that recklessly operates within an area described within this
21 section is guilty of:

22 1. A misdemeanor punishable by a fine of up to Five Hundred
23 Dollars (\$500.00) if the operation of the unmanned aircraft system
24

1 causes an aircraft being used to contain or control a wildland fire
2 to:

- 3 a. drop a payload of water or fire retardant in a
4 location other than the location originally designated
5 for the aircraft to drop the payload, or
- 6 b. land without dropping a payload of water or fire
7 retardant in the location originally designated for
8 the aircraft to drop the payload;

9 2. A felony under 18 U.S.C. 32, with penalties of up to twenty
10 (20) years in federal prison and Two Hundred Fifty Thousand Dollars
11 (\$250,000.00) in fines, if the operation of the robotic vehicle
12 causes the robotic vehicle to come into direct physical contact with
13 a manned aircraft; or if the operation of the robotic vehicle is the
14 proximate cause of a manned aircraft colliding with the ground, a
15 structure or another manned aircraft.

16 E. The incident commander of a wildland fire shall grant
17 reasonable access to the area of, and within three miles of, the
18 wildland fire to a sanctioned entity if:

19 1. The access is for a purpose related to the responsibilities
20 or business of the sanctioned entity, and

21 2. The access can be granted, with reasonable restrictions,
22 without imposing a safety risk or impairing efforts to control the
23 wildland fire.

1 F. A political subdivision of the state, or an entity within a
2 political subdivision of the state, may not enact a law, ordinance
3 or rule governing the private use of a robotic vehicle in relation
4 to a wildland fire.

5 G. Persons or sanctioned entities may not operate robotic
6 vehicles within close proximity to any location where law
7 enforcement is utilizing robotic vehicles to investigate a traffic
8 accident or a crime scene. Persons or sanctioned entities must
9 remain five hundred (500) feet away from any traffic accident scene
10 or crime scene being investigated by law enforcement where robotic
11 vehicles are being utilized.

12 H. This act does not prohibit the use of a robotic vehicle by
13 law enforcement:

14 1. To counter a high risk of a terrorist attack by a specific
15 individual or organization if the United States Secretary of
16 Homeland Security determines that credible intelligence indicates
17 that there is such a risk;

18 2. To investigate traffic accidents or crime scenes to collect
19 critical data or evidence;

20 3. To monitor traffic flow;

21 4. For surveillance, as part of a criminal investigation, when
22 the agency obtains a search warrant signed by a judge; or if there
23 is reasonable suspicion that, under extreme circumstances, swift
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1 action is needed to prevent imminent danger to life or serious
2 damage to property;

3 5. To forestall the imminent escape of a suspect or the
4 destruction of evidence, or to achieve purposes including, but not
5 limited to, facilitating the search for a missing person.

6 I. This act does not prohibit the use of a robotic vehicle by
7 pipeline companies and utility companies:

8 1. To capture images by or for an electric utility, water or
9 pipeline operating companies for operations and maintenance of
10 utility facilities, including facilities used in the generation,
11 transmission, or distribution of electricity, gas or water, for the
12 purpose of maintaining utility system reliability and integrity;

13 2. For inspecting utility facilities, including pipelines, to
14 determine construction, repair, maintenance or replacement needs
15 before, during and after construction of such facilities;

16 3. For utility routing, siting and permitting for the purpose
17 of constructing utility facilities or providing utility service;

18 4. For conducting environmental monitoring, as provided by
19 federal, state or local law, rule, or permit.

20 J. This act does not prohibit the use of a robotic vehicle by
21 agricultural producers;

22 1. For the inspection of agricultural crops or livestock;
23 provided that the robotic vehicle must be operated within property
24 boundaries.

1 2. From operating at any altitude that provides thorough
2 inspection of agricultural crops or livestock; provided that if
3 aerial crop spraying is visibly noticed in the immediate area of
4 operation the robotic vehicle operation must cease immediately.

5 K. This act does not prohibit the use of a robotic vehicle for
6 aerial mapping if the person or entity using a robotic vehicle for
7 this purpose is operating in compliance with Federal Aviation
8 Administration regulations.

9 L. Pipeline operators, utility companies and agricultural
10 producers utilizing robotic vehicles to inspect pipeline, electrical
11 power transmission lines and agricultural crops or livestock must
12 stay within the limits of the right of way or property boundaries
13 and may operate at an altitude that provides thorough inspection of
14 the pipeline, power transmission lines or agricultural crops or
15 livestock. Pipeline operators, utility companies and agricultural
16 producers may exceed line of sight limitations provided:

17 1. The operator stays within the limits of the pipeline or
18 electrical power transmission line right of way or within the
19 property boundaries for agricultural crops or livestock inspection;
20 and

21 2. The operator is able to effectively maintain positive
22 control of the robotic vehicle.

23 M. Before routine power transmission line inspection is
24 conducted the utility company shall notify all residents within the

1 inspection area of the upcoming inspection. Notice shall be given
2 seven (7) calendar days prior to the inspection. During a state of
3 emergency, as declared by the governor, notification of property
4 owners is not required.

5 N. Except as prescribed in subsection F of this act, a
6 political subdivision of the state, or an entity within a political
7 subdivision of the state may establish guidelines and restrictions
8 on the use of robotic vehicles within their jurisdiction.

9 O. The Director of the Oklahoma Aeronautics Commission shall
10 prepare and deliver a report to the Oklahoma Legislature no later
11 than December 1, 2017, that documents concerns and/or issues with
12 operation of robotic vehicle technology in the vicinity of Oklahoma
13 airports, prisons, and other public facilities. The report shall
14 also include a brief analysis of the anticipated economic impact of
15 any current or future proposed legislation.

16 P. The owner, tenant, occupant, invitee or licensee of
17 privately owned real property may initiate a civil action for
18 compensatory damages for violations of this section and may seek
19 injunctive relief to prevent future violations of this section
20 against a person, state agency or political subdivision that
21 violates this act. In such action, the prevailing party is entitled
22 to recover reasonable attorney fees from the non-prevailing party.
23 Punitive damages for a violation of this act may be sought against a
24 person. Evidence obtained or collected in violation of this act is

1 not admissible as evidence in a criminal prosecution in any court of
2 law in this state.

3 SECTION 2. This act shall become effective November 1, 2017.

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