

Clarification of State Law Enforcement Authority as It Pertains to the Use of Small Unmanned Aerial Vehicles (sUAS) “Drones” within the State of Texas

Title 3 of the Texas Transportation Code – Aviation, Chapter 24 – Operation of Aircraft, Subchapter A – Federal Requirements Regarding Airman Certification, defines “Aircraft” as “*a device that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment.*”

The **Federal Aviation Administration (FAA)** considers small Unmanned Aerial Vehicles (sUAS’s), better known as “drones” as aircraft, we need to have a clear definition of the term “AIRCRAFT” in our laws to best define the Texas Transportation Code definition of an Aircraft to follow federal laws.

The following are state laws regarding the use of drones in Texas which may be enforceable by state law enforcement officers:

TRC Sec. 21.157. COOPERATION WITH UNITED STATES IN LAW ENFORCEMENT. The department shall work with agencies of the United States in enforcing the statutes, directives, rules, and regulations of the United States.

Texas Transportation Code

TRC Sec. 24.003 Operation of Aircraft without Airman Certificate. A Code of Federal Regulations (CFR) Part 107 Remote Pilot Certificate is regarded as an “Airman Certificate” by the FAA. This is an offense punishable as a misdemeanor by (b) (1) a fine of not less than \$100 and not more than \$500 (b) (2) confinement in county jail for not less than 30 days and not more than six months: or (3) both the fine and the confinement.

TRC Sec. 24.004 Inspection of Airman Certificate. A person holding an airman certificate shall keep the certificate in the person’s possession when the person is operating an aircraft within this state or serving in connection with an aircraft flown or operated in this state. The person shall present the certificate for inspection on the demand of: (2) a peace officer of this state. There is no punishment classification associated with this section.

TRC Sec. 24.005 Aircraft Licensure and Registration. A person may not navigate an aircraft in this state, whether for commercial, pleasure, or noncommercial purposes, unless the aircraft is licensed and registered in the manner provided by the FAA. There is no punishment classification associated with this section.

TRC 24.011 Failure to Register Aircraft. A person commits an offense if the person operates or navigates an aircraft that the person knows is not properly registered under FAA aircraft registrations regulations. (*All sUAS’s are required to be registered by the FAA and visible on the outside of the aircraft*). An offense under this section is a felony of the third degree.

TRC 24.012 Aircraft Identification Numbers; Offense. (a) The failure to have the aircraft identification numbers clearly displayed on an aircraft in compliance with federal aviation regulations is probable cause for a peace officer to further inspect the aircraft to determine the identity of the owner or the aircraft. (b) A peace officer may inspect an aircraft under this subsection if the aircraft is located on public property or on private property if the officer has the consent of the property owner. (c) A person commits an offense if the person operates an aircraft that the person knows does not have aircraft identification numbers that comply with federal aviation regulations. (d) An offense under this subsection if a **felony in the third degree**.

TRC 24.021 Taking Off, Landing, Or Maneuvering Aircraft on Highways, Roads, or Streets. (a) A person commits an offense if the person takes off, lands, or maneuvers an aircraft, whether heavier or lighter than air, on a public highway, road, or street... (b) An offense under this subsection is a misdemeanor punishable by a fine of not less than \$25 and not more than \$200.

Texas Government Code

Texas Government Code Sec. 411.062 Law Enforcement and Security Authority (d-1) states that “The director shall adopt rules governing the use of unmanned aircraft in the Capitol Complex. The rules adopted under this subsection may: 1. Prohibit the use of unmanned aircraft in the Capitol Complex”

Texas Government Code 411.065. Offenses. (a) A person commits an offense if the person violates a rule of the department adopted under Section 411. (b) An offense under this section is a Class B misdemeanor if the person violates a rule adopted under Section 411 (d-1).

Texas Government Code 423.003 Offense: Illegal Use of Unmanned Aircraft to Capture an Image. A person commits an offense if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state *with the intent to conduct surveillance* on the individual or property captured in the image. An offense under this section is a Class C misdemeanor.

Texas Government Code 423.004 Offense: Possession, Disclosure, Display, Distribution or Use of an Image. A person commits an offense if the person captures an image in violation of Sec. 423.003 and possesses, discloses, displays, distributes, or otherwise uses that image. An offense under this section for the possession of an image is a Class C misdemeanor. An offense under this section for the disclosure, display, distribution, or other use of an image is a Class B misdemeanor.

Texas Government Code 423.0045 Offense: Operation of Unmanned Aircraft over Correctional Facility, Detention Facility, or Critical Infrastructure Facility. A person commits an offense if the person intentionally or knowingly (1) operates an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground level; (2) allows an unmanned aircraft to make contact with a correctional facility, detention facility, or critical infrastructure facility, including any person or object on the premises of or within the facility; or (3) allows an unmanned aircraft to come within a distance of a correctional facility, detention facility, or critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility. An offense under this subsection is a Class B misdemeanor.

Texas Administrative Code

Texas Administrative Code Title 37, Part 1, Chapter 8, Subchapter B, Rule 8.21 states that “an unmanned aerial vehicle may not be operated in or over state property including land and buildings in the Capitol Complex unless authorized as provided under Sec. 8.22.

Texas Administrative Code Title 37, Part 1, Chapter 8, Subchapter B, Rule 8.22 states that “an unmanned aerial vehicle may be operated in or over the Capitol grounds if advance limited use authorization has been obtained from the State Preservation Board and the Texas Facilities Commission. Prior to operating an unmanned aerial vehicle, as authorized under a limited use authorization or other authorization, the operator shall contact the department Capitol Complex headquarters to schedule the flight operation. During operations, the pilot of the unmanned aerial vehicle shall possess and present the authorization upon request to any personnel of the department, Texas Facilities Commission, or State Preservation Board.

Texas Penal Code

Sec. 38.15 “Interference with Public Duties” (a) A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with: (1) A peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law. (2) A person who is employed to provide emergency medical services including the transportation of ill or injured persons while the person is performing that duty. (3) A firefighter, while the fire fighter is fighting a fire or investigating the cause of a fire.