

By: Workman

H.B. No. 638

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of the offense of operation of unmanned
3 aircraft over correctional facility or critical infrastructure
4 facility.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Section 423.0045, Government
7 Code, is amended to read as follows:

8 Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER
9 CORRECTIONAL FACILITY OR CRITICAL INFRASTRUCTURE FACILITY.

10 SECTION 2. Section 423.0045(a), Government Code, is amended
11 by amending Subdivision (1) and adding Subdivision (1-a) to read as
12 follows:

13 (1) "Correctional facility" means:

14 (A) a confinement facility operated by or under
15 contract with any division of the Texas Department of Criminal
16 Justice;

17 (B) a municipal or county jail; or

18 (C) a secure correctional facility or secure
19 detention facility, as defined by Section 51.02, Family Code.

20 (1-a) "Critical infrastructure facility" means:

21 (A) one of the following, if completely enclosed
22 by a fence or other physical barrier that is obviously designed to
23 exclude intruders, or if clearly marked with a sign or signs that
24 are posted on the property, are reasonably likely to come to the

1 attention of intruders, and indicate that entry is forbidden:

2 (i) a petroleum or alumina refinery;

3 (ii) an electrical power generating
4 facility, substation, switching station, or electrical control
5 center;

6 (iii) a chemical, polymer, or rubber
7 manufacturing facility;

8 (iv) a water intake structure, water
9 treatment facility, wastewater treatment plant, or pump station;

10 (v) a natural gas compressor station;

11 (vi) a liquid natural gas terminal or
12 storage facility;

13 (vii) a telecommunications central
14 switching office;

15 (viii) a port, railroad switching yard,
16 trucking terminal, or other freight transportation facility;

17 (ix) a gas processing plant, including a
18 plant used in the processing, treatment, or fractionation of
19 natural gas;

20 (x) a transmission facility used by a
21 federally licensed radio or television station;

22 (xi) a steelmaking facility that uses an
23 electric arc furnace to make steel; or

24 (xii) a dam that is classified as a high
25 hazard by the Texas Commission on Environmental Quality; or

26 (B) any portion of an aboveground oil, gas, or
27 chemical pipeline that is enclosed by a fence or other physical

1 barrier that is obviously designed to exclude intruders.

2 SECTION 3. Sections 423.0045(b) and (c), Government Code,
3 are amended to read as follows:

4 (b) A person commits an offense if the person intentionally
5 or knowingly:

6 (1) operates an unmanned aircraft over a correctional
7 facility or critical infrastructure facility and the unmanned
8 aircraft is not higher than 400 feet above ground level;

9 (2) allows an unmanned aircraft to make contact with a
10 correctional facility or critical infrastructure facility,
11 including any person or object on the premises of or within the
12 facility; or

13 (3) allows an unmanned aircraft to come within a
14 distance of a correctional facility or critical infrastructure
15 facility that is close enough to interfere with the operations of or
16 cause a disturbance to the facility.

17 (c) This section does not apply to:

18 (1) conduct described by Subsection (b) that involves
19 a correctional facility or critical infrastructure facility and
20 ~~that~~ is committed by:

21 (A) ~~(1)~~ the federal government, the state, or a
22 governmental entity;

23 (B) ~~(2)~~ a person under contract with or
24 otherwise acting under the direction or on behalf of the federal
25 government, the state, or a governmental entity;

26 (C) ~~(3)~~ a law enforcement agency;

27 (D) ~~(4)~~ a person under contract with or

1 otherwise acting under the direction or on behalf of a law
2 enforcement agency; or

3 (E) an operator of an unmanned aircraft that is
4 being used for a commercial purpose, if the operator is authorized
5 by the Federal Aviation Administration to conduct operations over
6 that airspace; or

7 (2) conduct described by Subsection (b) that involves
8 a critical infrastructure facility and is committed by:

9 (A) [(5)] an owner or operator of the critical
10 infrastructure facility;

11 (B) [(6)] a person under contract with or
12 otherwise acting under the direction or on behalf of an owner or
13 operator of the critical infrastructure facility;

14 (C) [(7)] a person who has the prior written
15 consent of the owner or operator of the critical infrastructure
16 facility; or

17 (D) [(8)] the owner or occupant of the property
18 on which the critical infrastructure facility is located or a
19 person who has the prior written consent of the owner or occupant of
20 that property[~~, or~~

21 ~~[(9) an operator of an unmanned aircraft that is being~~
22 ~~used for a commercial purpose, if the operator is authorized by the~~
23 ~~Federal Aviation Administration to conduct operations over that~~
24 ~~airspace].~~

25 SECTION 4. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 5. This Act takes effect September 1, 2017.