

AN ACT

relating to the regulation of the operation of an unmanned aircraft and the prosecution of a related criminal offense.

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

SECTION 1. Section 423.0045(a)(1), Government Code, is amended to read as follows:

(1) "Critical infrastructure facility" means:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) a petroleum or alumina refinery;
(ii) an electrical power generating facility, substation, switching station, or electrical control center;

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

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

(v) a natural gas compressor station;

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

(vii) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

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

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

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

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

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

(xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or

(B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:

(i) any portion of an aboveground oil, gas, or chemical pipeline;

(ii) an oil or gas drilling site;

(iii) a group of tanks used to store crude oil, such as a tank battery;

(iv) an oil, gas, or chemical production facility;

(v) an oil or gas wellhead; or

(vi) any oil and gas facility that has an active flare [that is enclosed by a fence or other physical barrier that is obviously designed to exclude intruders].

SECTION 2. Section 423.0045(c), Government Code, is amended to read as follows:

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

(1) the federal government, the state, or a governmental entity;

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

(3) a law enforcement agency;

(4) a person under contract with or otherwise acting

under the direction or on behalf of a law enforcement agency;

(5) an owner or operator of the critical infrastructure facility;

(6) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the critical infrastructure facility;

(7) a person who has the prior written consent of the owner or operator of the critical infrastructure facility;

(8) the owner or occupant of the property on which the critical infrastructure facility is located or a person who has the prior written consent of the owner or occupant of that property; or

(9) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(A) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(B) all required Federal Aviation Administration authorizations [operator is authorized by the Federal Aviation Administration to conduct operations over that airspace].

SECTION 3. Chapter 423, Government Code, is amended by adding Section 423.009 to read as follows:

Sec. 423.009. REGULATION OF UNMANNED AIRCRAFT BY POLITICAL SUBDIVISION. (a) In this section:

(1) "Political subdivision" includes a county, a joint board created under Section 22.074, Transportation Code, and a municipality.

(2) "Special event" means a festival, celebration, or other gathering that:

(A) involves:

(i) the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and

(ii) entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and

(B) requires a significant use or coordination of a political subdivision's services.

(b) Except as provided by Subsection (c), a political subdivision may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft.

(c) A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

(1) the use of an unmanned aircraft during a special event;

(2) the political subdivision's use of an unmanned aircraft; or

(3) the use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:

(A) applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and

(B) after providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

(d) An ordinance, order, or other similar measure that violates Subsection (b) is void and unenforceable.

SECTION 4. Section 423.0045, Government Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

I certify that H.B. No. 1643 was passed by the House on May 11, 2017, by the following vote: Yeas 135, Nays 8, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1643 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1643 on May 28, 2017, by the following vote: Yeas 143, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1643 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 27, Nays 4; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1643 on May 28, 2017, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____
Date

Governor