

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

1 switching office or any structure used as part of a system to  
2 provide wired or wireless telecommunications services;

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

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

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

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

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

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

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

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

20 (ii) an oil or gas drilling site;

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

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

25 (v) an oil or gas wellhead; or

26 (vi) any oil and gas facility that has an  
27 active flare ~~[that is enclosed by a fence or other physical barrier~~

1 ~~that is obviously designed to exclude intruders]~~.

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

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

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

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

11 (3) a law enforcement agency;

12 (4) a person under contract with or otherwise acting  
13 under the direction or on behalf of a law enforcement agency;

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

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

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

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

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

27 (A) each applicable Federal Aviation

1 Administration rule, restriction, or exemption; and

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

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

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

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

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

14 (A) involves:

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

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

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

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

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

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

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

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

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

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

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

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

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

---

President of the Senate

---

Speaker of the House

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

H.B. No. 1643

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