

BILL ANALYSIS

C.S.H.B. 1481
By: Murphy
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the Federal Aviation Administration advises pilots against circling or entering the airspace above nuclear, hydro-electric, or coal-fired power plants, dams, refineries, industrial complexes, military facilities, and similar sites. However, these parties assert that these regulations serve only as a guideline for pilots and aircraft operators and have no means of enforcement for remotely piloted vehicles. These parties contend that the increasing use of these vehicles poses a significant safety and security risk for critical state infrastructure and that establishing state guidelines, enforceable by law, will reduce the risk of accidents and prevent intentional harm. C.S.H.B. 1481 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1481 amends the Government Code to create the Class B misdemeanor offense of operation of an unmanned aircraft over a critical infrastructure facility for a person who intentionally or knowingly operates an unmanned aircraft over a critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground level; allows an unmanned aircraft to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or allows an unmanned aircraft to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility. The bill defines a "critical infrastructure facility" as one of the following structures, 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: a petroleum or alumina refinery; an electrical power generating facility, substation, switching station, or electrical control center; an above-ground oil, gas, or chemical pipeline; a chemical, polymer, or rubber manufacturing facility; a water intake structure, water treatment facility, wastewater treatment plant, or pump station; a natural gas compressor station; a liquid natural gas terminal or storage facility; a telecommunications central switching office; a port, railroad switching yard, trucking terminal, or other freight transportation facility; a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; a transmission facility used by a federally licensed radio or television station; a steelmaking facility that uses an electric arc furnace to make steel; or a dam that is classified as a high hazard

by the Texas Commission on Environmental Quality.

C.S.H.B. 1481 exempts from application of the offense conduct that is committed by the federal government, the state, or a governmental entity; a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity; a law enforcement agency; a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency; an owner or operator of the critical infrastructure facility; a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the critical infrastructure facility; a person who has the prior written consent of the owner or operator of the critical infrastructure facility; or an operator of an unmanned aircraft that is being used for a commercial purpose, if the operator is authorized by the Federal Aviation Administration to conduct operations over that airspace. The bill enhances the penalty for a subsequent conviction of the offense from a Class B misdemeanor to a Class A misdemeanor.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1481 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 423, Government Code, is amended by adding Section 423.0045 to read as follows:

Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER TARGETED FACILITY. (a) In this section, "targeted facility" means:

- (1) a petroleum or alumina refinery;
- (2) an electric generation facility, natural gas generation facility, or nuclear electric power generation facility;
- (3) an oil or gas pipeline; or
- (4) a chemical or rubber manufacturing facility.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 423, Government Code, is amended by adding Section 423.0045 to read as follows:

Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER CRITICAL INFRASTRUCTURE FACILITY. (a) In this section:

- (1) "Critical infrastructure facility" means 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:
 - (A) a petroleum or alumina refinery;
 - (B) an electrical power generating facility, substation, switching station, or electrical control center;
 - (C) an above-ground oil, gas, or chemical pipeline;
 - (D) a chemical, polymer, or rubber manufacturing facility;
 - (E) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
 - (F) a natural gas compressor station;
 - (G) a liquid natural gas terminal or storage

(b) A person commits an offense if:
(1) the person intentionally or knowingly operates an unmanned aircraft over a targeted facility; and
(2) the unmanned aircraft is not higher than 400 feet above ground level.

(c) It is lawful under this section to operate an unmanned aircraft over a targeted facility if the unmanned aircraft is operated 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 targeted facility;
(6) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the targeted facility; or
(7) a person who has the prior written

facility;
(H) a telecommunications central switching office;
(I) a port, railroad switching yard, trucking terminal, or other freight transportation facility;
(J) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;
(K) a transmission facility used by a federally licensed radio or television station;
(L) a steelmaking facility that uses an electric arc furnace to make steel; or
(M) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality.

(2) "Dam" means any barrier, including any appurtenant structures, that is constructed for the purpose of permanently or temporarily impounding water.

(b) A person commits an offense if the person intentionally or knowingly:
(1) operates an unmanned aircraft over a 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 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 critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(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 targeted facility.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section.

SECTION 2. This Act takes effect September 1, 2015.

consent of the owner or operator of the critical infrastructure facility; or

(8) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operator is authorized by the Federal Aviation Administration to conduct operations over that airspace.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section.

SECTION 2. Same as introduced version.