

By: Campbell

S.B. No. 395

A BILL TO BE ENTITLED

AN ACT

1  
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.