

SENATE AMENDMENTS

2nd Printing

By: Murphy, Workman

H.B. No. 1424

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation of an unmanned aircraft over certain
3 facilities or sports venues; creating a criminal offense.

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

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

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

10 SECTION 2. Section 423.0045(a), Government Code, is amended
11 by amending Subdivision (1) and adding Subdivisions (1-a) and (3)
12 to read as 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;

18 (C) a confinement facility operated by or under
19 contract with the Federal Bureau of Prisons; or

20 (D) a secure correctional facility or secure
21 detention facility, as defined by Section 51.02, Family Code.

22 (1-a) "Critical infrastructure facility" means:

23 (A) one of the following, if completely enclosed
24 by a fence or other physical barrier that is obviously designed to

1 exclude intruders, or if clearly marked with a sign or signs that
2 are posted on the property, are reasonably likely to come to the
3 attention of intruders, and indicate that entry is forbidden:

4 (i) a petroleum or alumina refinery;

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

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

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

12 (v) a natural gas compressor station;

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

15 (vii) a telecommunications central
16 switching office;

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

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

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

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

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

1 (B) any portion of an aboveground oil, gas, or
2 chemical pipeline that is enclosed by a fence or other physical
3 barrier that is obviously designed to exclude intruders.

4 (3) "Detention facility" means a facility operated by
5 or under contract with United States Immigration and Customs
6 Enforcement for the purpose of detaining aliens and placing them in
7 removal proceedings.

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

10 (b) A person commits an offense if the person intentionally
11 or knowingly:

12 (1) operates an unmanned aircraft over a correctional
13 facility, detention facility, or critical infrastructure facility
14 and the unmanned aircraft is not higher than 400 feet above ground
15 level;

16 (2) allows an unmanned aircraft to make contact with a
17 correctional facility, detention facility, or critical
18 infrastructure facility, including any person or object on the
19 premises of or within the facility; or

20 (3) allows an unmanned aircraft to come within a
21 distance of a correctional facility, detention facility, or
22 critical infrastructure facility that is close enough to interfere
23 with the operations of or cause a disturbance to the facility.

24 (c) This section does not apply to:

25 (1) conduct described by Subsection (b) that involves
26 a correctional facility, detention facility, or critical
27 infrastructure facility and is committed by:

1 (A) [~~(1)~~] the federal government, the state, or a
2 governmental entity;

3 (B) [~~(2)~~] a person under contract with or
4 otherwise acting under the direction or on behalf of the federal
5 government, the state, or a governmental entity;

6 (C) [~~(3)~~] a law enforcement agency;

7 (D) [~~(4)~~] a person under contract with or
8 otherwise acting under the direction or on behalf of a law
9 enforcement agency; or

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

13 (i) each applicable Federal Aviation
14 Administration rule, restriction, or exemption; and

15 (ii) all required Federal Aviation
16 Administration authorizations; or

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

19 (A) [~~(5)~~] an owner or operator of the critical
20 infrastructure facility;

21 (B) [~~(6)~~] a person under contract with or
22 otherwise acting under the direction or on behalf of an owner or
23 operator of the critical infrastructure facility;

24 (C) [~~(7)~~] a person who has the prior written
25 consent of the owner or operator of the critical infrastructure
26 facility; or

27 (D) [~~(8)~~] the owner or occupant of the property

1 on which the critical infrastructure facility is located or a
2 person who has the prior written consent of the owner or occupant of
3 that property[~~or~~

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

8 (d) An offense under this section is a Class B misdemeanor,
9 except that the offense is a Class A misdemeanor if the actor has
10 previously been convicted under this section or Section 423.0046.

11 SECTION 4. Chapter 423, Government Code, is amended by
12 adding Section 423.0046 to read as follows:

13 Sec. 423.0046. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER
14 SPORTS VENUE. (a) In this section, "sports venue" means an arena,
15 automobile racetrack, coliseum, stadium, or other type of area or
16 facility that:

17 (1) has a seating capacity of 30,000 or more people;
18 and

19 (2) is primarily used for one or more professional or
20 amateur sports or athletics events.

21 (b) A person commits an offense if the person operates an
22 unmanned aircraft over a sports venue and the unmanned aircraft is
23 not higher than 400 feet above ground level.

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

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

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

4 (3) a law enforcement agency;

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

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

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

12 (B) all required Federal Aviation Administration
13 authorizations;

14 (6) an owner or operator of the sports venue;

15 (7) a person under contract with or otherwise acting
16 under the direction or on behalf of an owner or operator of the
17 sports venue; or

18 (8) a person who has the prior written consent of the
19 owner or operator of the sports venue.

20 (d) An offense under this section is a Class B misdemeanor,
21 except that the offense is a Class A misdemeanor if the actor has
22 previously been convicted under this section or Section 423.0045.

23 SECTION 5. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

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

ADOPTED

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MAY 23 2017

Lotay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Zaffirini

1 Amend H.B. No. 1424 (senate committee report) by adding the
2 following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 423.002(a), Government Code, is
5 amended to read as follows:

6 (a) It is lawful to capture an image using an unmanned
7 aircraft in this state:

8 (1) for the purpose of professional or scholarly
9 research and development or for another academic purpose by a
10 person acting on behalf of an institution of higher education or a
11 private or independent institution of higher education, as those
12 terms are defined by Section 61.003, Education Code, including a
13 person who:

14 (A) is a professor, employee, or student of the
15 institution; or

16 (B) is under contract with or otherwise acting
17 under the direction or on behalf of the institution;

18 (2) in airspace designated as a test site or range
19 authorized by the Federal Aviation Administration for the purpose
20 of integrating unmanned aircraft systems into the national
21 airspace;

22 (3) as part of an operation, exercise, or mission of
23 any branch of the United States military;

24 (4) if the image is captured by a satellite for the
25 purposes of mapping;

26 (5) if the image is captured by or for an electric or
27 natural gas utility:

28 (A) for operations and maintenance of utility
29 facilities for the purpose of maintaining utility system

1 reliability and integrity;

2 (B) for inspecting utility facilities to
3 determine repair, maintenance, or replacement needs during and
4 after construction of such facilities;

5 (C) for assessing vegetation growth for the
6 purpose of maintaining clearances on utility easements; and

7 (D) for utility facility routing and siting for
8 the purpose of providing utility service;

9 (6) with the consent of the individual who owns or
10 lawfully occupies the real property captured in the image;

11 (7) pursuant to a valid search or arrest warrant;

12 (8) if the image is captured by a law enforcement
13 authority or a person who is under contract with or otherwise acting
14 under the direction or on behalf of a law enforcement authority:

15 (A) in immediate pursuit of a person law
16 enforcement officers have reasonable suspicion or probable cause to
17 suspect has committed an offense, not including misdemeanors or
18 offenses punishable by a fine only;

19 (B) for the purpose of documenting a crime scene
20 where an offense, not including misdemeanors or offenses punishable
21 by a fine only, has been committed;

22 (C) for the purpose of investigating the scene
23 of:

24 (i) a human fatality;

25 (ii) a motor vehicle accident causing death
26 or serious bodily injury to a person; or

27 (iii) any motor vehicle accident on a state
28 highway or federal interstate or highway;

29 (D) in connection with the search for a missing
30 person;

31 (E) for the purpose of conducting a high-risk

1 tactical operation that poses a threat to human life; or

2 (F) of private property that is generally open to
3 the public where the property owner consents to law enforcement
4 public safety responsibilities;

5 (9) if the image is captured by state or local law
6 enforcement authorities, or a person who is under contract with or
7 otherwise acting under the direction or on behalf of state
8 authorities, for the purpose of:

9 (A) surveying the scene of a catastrophe or other
10 damage to determine whether a state of emergency should be
11 declared;

12 (B) preserving public safety, protecting
13 property, or surveying damage or contamination during a lawfully
14 declared state of emergency; or

15 (C) conducting routine air quality sampling and
16 monitoring, as provided by state or local law;

17 (10) at the scene of a spill, or a suspected spill, of
18 hazardous materials;

19 (11) for the purpose of fire suppression;

20 (12) for the purpose of rescuing a person whose life or
21 well-being is in imminent danger;

22 (13) if the image is captured by a Texas licensed real
23 estate broker in connection with the marketing, sale, or financing
24 of real property, provided that no individual is identifiable in
25 the image;

26 (14) of real property or a person on real property that
27 is within 25 miles of the United States border;

28 (15) from a height no more than eight feet above ground
29 level in a public place, if the image was captured without using any
30 electronic, mechanical, or other means to amplify the image beyond
31 normal human perception;

1 (16) of public real property or a person on that
2 property;

3 (17) if the image is captured by the owner or operator
4 of an oil, gas, water, or other pipeline for the purpose of
5 inspecting, maintaining, or repairing pipelines or other related
6 facilities, and is captured without the intent to conduct
7 surveillance on an individual or real property located in this
8 state;

9 (18) in connection with oil pipeline safety and rig
10 protection;

11 (19) in connection with port authority surveillance
12 and security;

13 (20) if the image is captured by a registered
14 professional land surveyor in connection with the practice of
15 professional surveying, as those terms are defined by Section
16 1071.002, Occupations Code, provided that no individual is
17 identifiable in the image; [~~or~~]

18 (21) if the image is captured by a professional
19 engineer licensed under Subchapter G, Chapter 1001, Occupations
20 Code, in connection with the practice of engineering, as defined by
21 Section 1001.003, Occupations Code, provided that no individual is
22 identifiable in the image; or

23 (22) if the image is:

24 (A) captured for the purpose of delivering
25 consumer goods that were ordered through an Internet website or
26 mobile application and the operator of the unmanned aircraft is
27 authorized by the Federal Aviation Administration to conduct
28 operations within the airspace from which the image is captured;
29 and

30 (B) directly related to the purpose described by
31 Paragraph (A), including images captured for purposes of navigation

1 or ensuring public safety.

ADOPTED

MAY 23 2017

FLOOR AMENDMENT NO. 2

Lataj Spaw
Secretary of the Senate

BY:

Korri Burton

1 Amend H.B. No. 1424 (senate committee report) in SECTION 4
2 of the bill, in added Section 423.0046(b), Government Code (page
3 3, line 13), between "the person" and "operates", by inserting
4 "intentionally or knowingly".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 24, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Murphy (Relating to the operation of an unmanned aircraft over certain facilities or sports venues; creating a criminal offense.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code relating to the operation of unmanned aircraft. The bill would prohibit operating an unmanned aircraft over a correctional or detention facility operated by the federal, state, or local government.

The bill would prohibit the operation of an unmanned aircraft over a sports venue unless the actor was is a government or law enforcement entity, acting on behalf of a government or law enforcement entity, under the authorization of the Federal Aviation Administration for commercial purposes, or acting on behalf of the owner/operator of the facility.

The offense would be punishable by a Class B misdemeanor unless the actor had been convicted previous for the same offense then punishable by a Class A misdemeanor.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies:

LBB Staff: UP, KJo, GG, BM, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Murphy (Relating to the operation of an unmanned aircraft over certain facilities or sports venues; creating a criminal offense.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code relating to the operation of unmanned aircraft. The bill would prohibit operating an unmanned aircraft over a correctional or detention facility operated by the federal, state, or local government.

The bill would prohibit the operation of an unmanned aircraft over a sports venue unless the actor was is a government or law enforcement entity, acting on behalf of a government or law enforcement entity, under the authorization of the Federal Aviation Administration for commercial purposes, or acting on behalf of the owner/operator of the facility.

The offense would be punishable by a Class B misdemeanor unless the actor had been convicted previous for the same offense then punishable by a Class A misdemeanor.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies:

LBB Staff: UP, KJo, GG, BM, JGA

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 18, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1424 by Murphy (Relating to the operation of an unmanned aircraft over certain facilities or sports venues; creating a criminal offense.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Government Code relating to the operation of unmanned aircraft. The bill would prohibit operating an unmanned aircraft over a correctional or detention facility operated by the federal, state, or local government.

The bill would prohibit the operation of an unmanned aircraft over a sports venue unless the actor is a government or law enforcement entity, acting on behalf of a government or law enforcement entity, under the authorization of the Federal Aviation Administration for commercial purposes, or acting on behalf of the owner/operator of the facility.

The offense would be punishable by a Class B misdemeanor unless the actor had been convicted previous for the same offense then punishable by a Class A misdemeanor.

The bill would take effect September 1, 2017.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies:

LBB Staff: UP, KJo, GG, BM, JGA