

SENATE AMENDMENTS

2nd Printing

By: Springer

H.B. No. 1643

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (1) "Critical infrastructure facility" means:

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

13 (i) a petroleum or alumina refinery;

14 (ii) an electrical power generating
15 facility, substation, switching station, or electrical control
16 center;

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

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

21 (v) a natural gas compressor station;

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

24 (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, Government Code, is amended by
3 amending Subsection (c) and adding Subsections (e), (f), and (g) to
4 read as follows:

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

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

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

12 (3) a law enforcement agency;

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

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

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

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

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

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

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

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

6 (e) Except as provided by this section, a political
7 subdivision may not adopt or enforce any ordinance, order, or other
8 similar measure regarding the operation of an unmanned aircraft.

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

11 (1) the political subdivision's use of an unmanned
12 aircraft; or

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

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

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

21 (g) An ordinance, order, or other similar measure that
22 violates Subsection (e) is void and unenforceable.

23 SECTION 3. 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

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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 4. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Leta Spaw
Secretary of the Senate

By: *Seliger*

H.B. No. 1643

Substitute the following for H.B. No. 1643:

By: *John Lehman*

C.S. H.B. No. 1643

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the criminal offense of operation of an unmanned aircraft over certain facilities.

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. The change in law made 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 4. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1643 by Springer (Relating to the prosecution of the criminal offense of operation of an unmanned aircraft over certain facilities.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code prohibiting an unmanned aircraft from taking pictures of certain facilities and structures.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, KJo, GG, BM, FR

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1643 by Springer (Relating to the prosecution of the criminal offense of operation of an unmanned aircraft over certain facilities.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code prohibiting an unmanned aircraft from taking pictures of certain facilities and structures.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 15, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1643 by Springer (Relating to the regulation of the operation of an unmanned aircraft and the prosecution of a related criminal offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code prohibiting an unmanned aircraft from taking pictures of certain facilities and structures.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 12, 2017

TO: Honorable Phil King, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1643 by Springer (Relating to the prosecution of the offense of operation of an unmanned aircraft over certain facilities.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code prohibiting an unmanned aircraft from taking pictures of a concentrated animal feeding operation or any structure used to provide wired or wireless telecommunications services.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, FR, GG, BM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 31, 2017

TO: Honorable Phil King, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1643 by Springer (Relating to the prosecution of the offense of operation of an unmanned aircraft over certain facilities.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code prohibiting an unmanned aircraft from taking pictures of a concentrated animal feeding operation.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, FR, GG, BM