

By: Cole

H.B. No. 3494

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offense of operation of an
3 unmanned aircraft over certain facilities and to the regulation of
4 unmanned aircraft by certain political subdivisions.

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

6 SECTION 1. Section 423.0045(a)(1), Government Code, as
7 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
8 the 85th Legislature, Regular Session, 2017, is reenacted to read
9 as follows:

10 (1) "Correctional facility" means:

11 (A) a confinement facility operated by or under
12 contract with any division of the Texas Department of Criminal
13 Justice;

14 (B) a municipal or county jail;

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

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

19 SECTION 2. Section 423.0045(a)(1-a), Government Code, is
20 reenacted to conform to the changes made to Section 423.0045(a)(1),
21 Government Code, by Chapter 824 (H.B. 1643), Acts of the 85th
22 Legislature, Regular Session, 2017, and is further amended to read
23 as follows:

24 (1-a) "Critical infrastructure facility" means:

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

6 (i) a petroleum or alumina refinery;

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

10 (iii) a chemical, polymer, or rubber
11 manufacturing facility;

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

14 (v) a natural gas compressor station;

15 (vi) a liquid natural gas terminal or
16 storage facility;

17 (vii) a telecommunications central
18 switching office or any structure used as part of a system to
19 provide wired or wireless telecommunications services;

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

22 (ix) a gas processing plant, including a
23 plant used in the processing, treatment, or fractionation of
24 natural gas;

25 (x) a transmission facility used by a
26 federally licensed radio or television station;

27 (xi) a steelmaking facility that uses an

1 electric arc furnace to make steel;

2 (xii) a dam that is classified as a high
3 hazard by the Texas Commission on Environmental Quality; [~~or~~]

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

6 (xiv) an airport, as defined by Section
7 22.001, Transportation Code, that serves commercial air carriers;

8 or

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

11 (i) any portion of an aboveground oil, gas,
12 or chemical pipeline;

13 (ii) an oil or gas drilling site;

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

16 (iv) an oil, gas, or chemical production
17 facility;

18 (v) an oil or gas wellhead; or

19 (vi) any oil and gas facility that has an
20 active flare.

21 SECTION 3. Section 423.0045(c), Government Code, as amended
22 by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of the 85th
23 Legislature, Regular Session, 2017, is reenacted to read as
24 follows:

25 (c) This section does not apply to:

26 (1) conduct described by Subsection (b) that involves
27 a correctional facility, detention facility, or critical

1 infrastructure facility and is committed by:

2 (A) the federal government, the state, or a
3 governmental entity;

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

7 (C) a law enforcement agency;

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

10 or

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

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

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

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

20 (A) an owner or operator of the critical
21 infrastructure facility;

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

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

27 (D) the owner or occupant of the property on

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

4 SECTION 4. Section 423.009, Government Code, is amended to
5 read as follows:

6 Sec. 423.009. REGULATION OF UNMANNED AIRCRAFT BY COUNTY OR
7 MUNICIPALITY [~~POLITICAL SUBDIVISION~~]. (a) A county or
8 municipality [~~In this section:~~

9 [~~(1) "Political subdivision" includes a county, a~~
10 ~~joint board created under Section 22.074, Transportation Code, and~~
11 ~~a 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~~
22 ~~of 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
25 other similar measure regarding the operation of an unmanned
26 aircraft.

27 (b) [~~(c) A political subdivision may adopt and enforce an~~

1 ~~ordinance, order, or other similar measure regarding:~~

2 ~~[(1) the use of an unmanned aircraft during a special~~
3 ~~event,~~

4 ~~[(2) the political subdivision's use of an unmanned~~
5 ~~aircraft, or~~

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

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

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

14 ~~[(d)]~~ An ordinance, order, or other similar measure that
15 violates Subsection (a) ~~[(b)]~~ is void and unenforceable.

16 SECTION 5. Section [423.0045](#), Government Code, as amended by
17 this Act, applies only to an offense committed on or after the
18 effective date of this Act. An offense committed before the
19 effective date of this Act is governed by the law in effect on the
20 date the offense was committed, and the former law is continued in
21 effect for that purpose. For purposes of this section, an offense
22 was committed before the effective date of this Act if any element
23 of the offense occurred before that date.

24 SECTION 6. To the extent of any conflict, this Act prevails
25 over another Act of the 86th Legislature, Regular Session, 2019,
26 relating to nonsubstantive additions to and corrections in enacted
27 codes.

1 SECTION 7. This Act takes effect September 1, 2019.