

By: Cyrier

H.B. No. 3403

A BILL TO BE ENTITLED

AN ACT

relating to the operation of an unmanned aircraft that is outside the direct line of sight of the operator of the aircraft; creating a criminal offense; imposing a fee.

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

SECTION 1. Title 3, Transportation Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. OPERATION OF UNMANNED AIRCRAFT OUTSIDE DIRECT LINE OF SIGHT OF OPERATOR

Sec. 27.001. DEFINITIONS. In this chapter:

(1) "Avigation easement" means an airspace corridor established by the department through which an unmanned aircraft may operate.

(2) "Department" means the Texas Department of Transportation.

(3) "Public safety unmanned aircraft" means an unmanned aircraft that is being operated for a public safety purpose, including responding to an emergency, by a governmental entity or a person under contract with a governmental entity.

Sec. 27.002. APPLICABILITY. This chapter applies:

(1) only to an unmanned aircraft that is being operated outside of the direct line of sight of the operator; and

(2) only to the extent permitted by federal law.

Sec. 27.003. RULES. The department may adopt rules as

1 necessary to administer this chapter.

2 Sec. 27.004. OPERATION OF UNMANNED AIRCRAFT IN AVIGATION
3 EASEMENT REQUIRED; EXCEPTIONS. (a) Except as provided by
4 Subsection (b), a person may not operate an unmanned aircraft that
5 is outside the direct line of sight of the person unless the
6 aircraft is being operated in an avigation easement.

7 (b) This section does not apply to:

8 (1) an unmanned aircraft that is being operated over:

9 (A) federal land; or

10 (B) property that is owned or leased by the
11 operator of the unmanned aircraft;

12 (2) a person who has the consent of the owner or lessee
13 of the property over which the unmanned aircraft is being operated;
14 or

15 (3) a public safety unmanned aircraft that is being
16 operated in response to an emergency, provided that the aircraft is
17 not being used primarily for the collection of evidence or data.

18 Sec. 27.005. ESTABLISHMENT OF AVIGATION EASEMENTS. (a)
19 The department shall establish a system authorizing and regulating
20 the operation of unmanned aircraft in avigation easements.

21 (b) The department shall establish avigation easements
22 over:

23 (1) highways and roads under the jurisdiction of the
24 department;

25 (2) state-owned land that is subject to a ground
26 easement;

27 (3) the navigable water in this state;

1 (4) land described by Subsection (d) following an
2 application submitted to the department by a political subdivision
3 under that subsection; and

4 (5) land described by Subsection (e) following an
5 application submitted to the department by a private landowner or
6 owner of a ground easement under that subsection.

7 (c) The department may establish avigation easements over
8 any state-owned land, including state parks and beaches, public
9 institutions of higher education, and other state-owned
10 facilities.

11 (d) A political subdivision may apply to the department in
12 the manner prescribed by the department for the establishment of an
13 avigation easement over:

14 (1) a highway or road under the jurisdiction of the
15 political subdivision; or

16 (2) land owned by the political subdivision, including
17 parks, beaches, and land that is subject to a ground easement.

18 (e) A private landowner or the owner of a ground easement,
19 other than the state or a political subdivision, may apply to the
20 department in the manner prescribed by the department for the
21 establishment of an avigation easement over the person's property
22 or ground easement.

23 (f) The sale or conveyance of property or a ground easement
24 subject to an avigation easement under this section does not affect
25 the validity of the avigation easement, provided that the new owner
26 of the property or ground easement may terminate the avigation
27 easement in accordance with Section 27.010.

1 Sec. 27.006. AVIGATION EASEMENT BOUNDARIES. An avigation
2 easement established under Section 27.005:

3 (1) must be the same width as the boundaries of the
4 property or ground easement subject to the avigation easement,
5 except that an avigation easement in a residential area that is
6 over:

7 (A) a highway or road may not include any
8 adjacent sidewalk or right-of-way; or

9 (B) a utility easement may not extend more than
10 five feet on either side of the centerline of the utility easement;
11 and

12 (2) may not be higher than 400 feet in height above
13 ground level.

14 Sec. 27.007. REQUIREMENTS FOR OPERATION IN AVIGATION
15 EASEMENTS. (a) The department by rule shall establish minimum
16 requirements for unmanned aircraft operating in avigation
17 easements.

18 (b) The minimum requirements must:

19 (1) require an unmanned aircraft to:

20 (A) be equipped with a transponder that allows
21 the department to monitor the operations of the aircraft;

22 (B) have the ability to:

23 (i) avoid obstructions and other unmanned
24 aircraft in the avigation easement; and

25 (ii) automatically obscure facial features
26 of individuals captured by incidental photos taken by the aircraft;

27 (C) have sufficient safety features to minimize

1 the danger to persons or property below an avigation easement
2 resulting from system malfunctions or failures; and

3 (D) operate at a height that is at least 50 feet
4 above any obstruction that is in the aircraft's path; and

5 (2) prohibit an unmanned aircraft from operating at a
6 height that is less than 50 feet above ground level except for
7 purposes of launching or landing the aircraft.

8 Sec. 27.008. ENTERING AND EXITING AVIGATION EASEMENT FOR
9 PURPOSES OF LAUNCHING OR LANDING UNMANNED AIRCRAFT. For purposes
10 of entering or exiting an avigation easement, a person may only
11 launch an unmanned aircraft from or land the aircraft on:

12 (1) property that is owned or leased by the operator of
13 the unmanned aircraft;

14 (2) property for which the person has obtained the
15 consent of the owner or lessee of the property to launch the
16 aircraft from or land the aircraft on; or

17 (3) property subject to an avigation easement, other
18 than an avigation easement established under Section 27.005(b)(5).

19 Sec. 27.009. USER FEES. (a) The department shall charge a
20 person operating an unmanned aircraft in an avigation easement,
21 other than a public safety unmanned aircraft, a fee for operating
22 the aircraft in the avigation easement.

23 (b) In setting the amount of fees under this section, the
24 department shall allow an operator of an unmanned aircraft to:

25 (1) pay a fee based on each minute the unmanned
26 aircraft is operated in an avigation easement; or

27 (2) purchase a plan that grants the operator unlimited

1 or limited access to operate in avigation easements for a flat fee.

2 (c) Fees collected under this section that are attributable
3 to an avigation easement established under Section 27.005(b)(1),
4 (2), or (3) or 27.005(c) shall be deposited to credit of the general
5 revenue fund and may be used only by the department for the
6 administration of this chapter.

7 (d) The department shall remit the portion of the fees
8 collected under this section that are attributable to an avigation
9 easement established under Section 27.005(b)(4) or (5) to the
10 political subdivision, private landowner, or owner of a ground
11 easement whose property or ground easement is subject to the
12 avigation easement.

13 (e) The department shall establish a method for determining
14 the portion of the fee described by Subsection (b)(2) that is
15 attributable to each avigation easement.

16 Sec. 27.010. TERMINATION OF AVIGATION EASEMENT. (a) The
17 department may not terminate an avigation easement established
18 under Section 27.005(b)(1), (2), or (3). The department on its own
19 initiative may terminate an avigation easement established under
20 Section 27.005(c).

21 (b) A person who owns property or a ground easement that is
22 subject to an avigation easement established under Section
23 27.005(b)(4) or (5) may terminate the avigation easement by
24 submitting to the department in the manner prescribed by the
25 department a request to terminate the avigation easement.

26 (c) Notwithstanding any other provision of this section,
27 the department may not terminate an avigation easement unless the

1 department has provided public notice of the termination at least
2 30 days before the date that the termination takes effect.

3 Sec. 27.011. GEOFENCING OF CERTAIN PRIVATE PROPERTY. A
4 person who owns private property that is not subject to an avigation
5 easement under Section 27.005 may geofence the property to prohibit
6 an unmanned aircraft from operating over the property, provided
7 that the geofencing may not prohibit a public safety unmanned
8 aircraft that is being operated in response to an emergency from
9 operating over the property.

10 Sec. 27.012. OFFENSE. (a) A person commits an offense if
11 the person operates an unmanned aircraft in violation of this
12 chapter or a rule adopted under this chapter.

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

16 SECTION 2. This Act takes effect September 1, 2021.