By:  Kacal (Senate Sponsor - Flores) H.B. No. 3075

(In the Senate - Received from the House May 1, 2023; May 2, 2023, read first time and referred to Committee on Criminal Justice; May 11, 2023, reported favorably by the following vote: Yeas 6, Nays 0; May 11, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt               X

Hinojosa        X

Huffman         X

King            X

Miles           X

A BILL TO BE ENTITLED

AN ACT

relating to the operation of an unmanned aircraft over a correctional facility or detention facility; creating a criminal offense.

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

SECTION 1.  Chapter 38, Penal Code, is amended by adding Section 38.115 to read as follows:

Sec. 38.115.  OPERATION OF UNMANNED AIRCRAFT OVER CORRECTIONAL FACILITY OR DETENTION FACILITY. (a) In this section:

(1)  "Contraband" means any item not provided by or authorized by the operator of a correctional facility or detention facility.

(2)  "Correctional facility" means:

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

(B)  a municipal or county jail;

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

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

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

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

(1)  operates an unmanned aircraft over a correctional facility or detention facility and the unmanned aircraft is not higher than 400 feet above ground level;

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

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

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

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

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

(3)  a person who has the prior written consent of the owner or operator of the correctional facility or detention facility;

(4)  a law enforcement agency; or

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

(d)  An offense under this section is a Class B misdemeanor, except that the offense is:

(1)  a Class A misdemeanor if the actor has previously been convicted under this section; or

(2)  a state jail felony if, during the commission of the offense, the actor used the unmanned aircraft to:

(A)  provide contraband to a person in the custody of the correctional facility or detention facility; or

(B)  otherwise introduce contraband into the correctional facility or detention facility.

SECTION 2.  The heading to Section 423.0045, Government Code, is amended to read as follows:

Sec. 423.0045.  OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER [~~CORRECTIONAL FACILITY, DETENTION FACILITY, OR~~] CRITICAL INFRASTRUCTURE FACILITY.

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

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

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

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

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

(c)  This section does not apply to[~~:~~

[~~(1)~~]  conduct described by Subsection (b) that [~~involves a correctional facility, detention facility, or critical infrastructure facility and~~] is committed by:

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

(2) [~~(B)~~]  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) [~~(C)~~]  a law enforcement agency;

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

(5)  [~~or~~

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

(A) [~~(i)~~]  each applicable Federal Aviation Administration rule, restriction, or exemption; and

(B) [~~(ii)~~]  all required Federal Aviation Administration authorizations;

(6)  [~~or~~

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

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

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

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

(9) [~~(D)~~]  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.

SECTION 4.  Sections 423.0045(a)(1) and (3), Government Code, are repealed.

SECTION 5.  The change in law made by this Act to Section 423.0045, Government Code, 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 was committed before that date.

SECTION 6.  This Act takes effect September 1, 2023.

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