

By: Kacal

H.B. No. 3075

Substitute the following for H.B. No. 3075:

By: Herrero

C.S.H.B. No. 3075

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the operation of an unmanned aircraft over a
3 correctional facility or detention facility; creating a criminal
4 offense.

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

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

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

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

13 (2) "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 (3) "Detention facility" means a facility operated by
23 or under contract with United States Immigration and Customs
24 Enforcement for the purpose of detaining aliens and placing them in

1 removal proceedings.

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

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

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

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

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

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

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

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

24 (4) a law enforcement agency; or

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

27 (d) An offense under this section is a Class B misdemeanor,

1 except that the offense is:

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

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

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

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

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

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

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

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

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

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

27 (3) allows an unmanned aircraft to come within a

1 distance of a [~~correctional facility, detention facility, or~~
2 critical infrastructure facility that is close enough to interfere
3 with the operations of or cause a disturbance to the facility.

4 (c) This section does not apply to[+]

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

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

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

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

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

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

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

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

24 (6) [~~(F)~~

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

27 [~~(A)~~] an owner or operator of the critical

1 infrastructure facility;

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

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

8 (9) [~~(D)~~] the owner or occupant of the property on
9 which the critical infrastructure facility is located or a person
10 who has the prior written consent of the owner or occupant of that
11 property.

12 SECTION 4. Sections [423.0045](#)(a)(1) and (3), Government
13 Code, are repealed.

14 SECTION 5. The change in law made by this Act to Section
15 [423.0045](#), Government Code, applies only to an offense committed on
16 or after the effective date of this Act. An offense committed
17 before the effective date of this Act is governed by the law in
18 effect on the date the offense was committed, and the former law is
19 continued in effect for that purpose. For purposes of this section,
20 an offense was committed before the effective date of this Act if
21 any element of the offense was committed before that date.

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