

BILL ANALYSIS

Senate Research Center

H.B. 1643
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Criminal Justice
5/18/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that the offense of operating an unmanned aircraft over a critical infrastructure facility insufficiently protects farmers raising livestock as flying such aircraft near animals can have adverse effects on the livestock, thus reducing their value. The parties further contend a need to update the telecommunications facilities to which this offense applies. H.B. 1643 seeks to protect the economic interests of Texas' farmers by classifying certain concentrated animal feeding operations as critical infrastructure facilities for purposes of that offense and to update the offense with respect to telecommunications facilities.

Additionally, some amendments were added on the House floor and the engrossed version of the bill includes provisions that would add oil or gas drilling sites to the definition of critical infrastructure as well as language relating to a political subdivisions ability to adopt or enforce ordinances relating to unmanned aircraft.

H.B. 1643 amends current law relating to the regulation of the operation of an unmanned aircraft and the prosecution of a related criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 423.0045(a)(1), Government Code, as follows:

(1) Provides that "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) through (vi) makes no changes to these subparagraphs;

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

(viii) through (x) makes no changes to these subparagraphs;

(xi) makes a nonsubstantive change;

(xii) makes no change to this subparagraph; or

(xiii) a concentrated animal feeding operation, as defined by Section 26.048 (Prohibition of Discharge to a Playa from a Concentrated Animal Feeding Operation), Water Code; or

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

- (i) creates this subparagraph from existing text and make no further changes;
- (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, rather than that is enclosed by a fence or other physical barrier that is obviously designed to exclude intruders.

SECTION 2. Amends Section 423.0045, Government Code, by amending Subsection (c) and adding Subsections (e), (f), and (g), as follows:

(c) Provides that this section does not apply to conduct described by Subsection (b) (relating to a person knowingly committing an offense if certain criteria are met) that is committed by:

(1) through (8) makes no changes to these subdivisions; 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 (FAA) rule, restriction, or exemption; and

(B) all required FAA authorizations, rather than if the operator is authorized by FAA to conduct operations over that airspace.

(e) Prohibits a political subdivision, except as provided by this section, from adopting or enforcing any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft.

(f) Authorizes a political subdivision to adopt and enforce an ordinance, order, or other similar measure regarding:

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

(2) the use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision applies for and receives authorization from FAA to adopt the regulation and, after providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

(g) Provides that an ordinance, order, or other similar measure that violates Subsection (e) is void and unenforceable.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.