

SUBJECT: Offense for operating unmanned aircraft over certain critical infrastructure

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Hunter, Leach, Shaheen, Simpson

0 nays

1 absent — Canales

WITNESSES: For — Melinda Smith, Combined Law Enforcement Associations of Texas (CLEAT); Patrick Tarlton, Texas Chemical Council; Mari Ruckel, Texas Oil and Gas Association; (*Registered, but did not testify*: Gavin Massingill, American Chemistry Council; Lindsay Mullins, BNSF Railway; Matt Phillips, Brazos River Authority; Robert Flores, Breitling Energy; Amy Maxwell, CenterPoint Energy, Marathon Oil Corporation; Samantha Omey, ExxonMobil; Mike Meroney, Huntsman Corp., BASF Corp., and Sherwin Alumina, Co.; Mindy Ellmer, LyondellBasell Industries; Ben Sebree, Marathon Petroleum Corporation; John Paul Urban, NRG Energy; Randy Cubriel, Nucor; Teresa Rushing, Tarrant County Libertarian Party; Stephen Minick, Texas Association of Business; Daniel Womack, the Dow Chemical Company; Stephanie Simpson, Texas Association of Manufacturers; John R. Pitts, United Parcel Service)

Against — (*Registered, but did not testify*: Micah Harmon, Sheriffs' Association of Texas; Dirk Davidek)

On — (*Registered, but did not testify*: William Travis, Sheriffs' Association of Texas)

DIGEST: CSHB 1481 would create a criminal offense for operating an unmanned aircraft over certain critical infrastructure facilities.

Critical infrastructure would be defined as:

- petroleum or alumina refineries;
- electrical power generating facilities, substations, switching stations, or electrical control centers;
- above-ground oil, gas, or chemical pipelines;
- chemical, polymer, or rubber manufacturing facilities;
- water intake structures, water treatment facilities, wastewater treatment plants, and pump stations;
- natural gas compressor stations; liquid natural gas terminals or storage facilities;
- telecommunications central switching offices;
- ports, railroad switching yards, trucking terminals, or other freight transportation facilities;
- gas processing plants;
- transmission facilities used by a federally licensed radio or television stations;
- certain steelmaking facilities; and
- dams classified as a high hazard by the Texas Commission on Environmental Quality.

Critical infrastructure facilities would have to be completely enclosed by a fence or other physical barrier that was obviously designed to exclude intruders or be clearly marked with posted signs that were reasonably likely to come to the attention of intruders and that indicated that entry was forbidden.

Individuals would commit an offense if they intentionally or knowingly:

- operated an unmanned aircraft over a criminal infrastructure facility and it was 400 feet or lower;
- allowed an unmanned aircraft to make contact with a facility, including a person or object on the premises or in the facility; or
- allowed an unmanned aircraft to come within a distance of a facility that was close enough to interfere with its operations or cause a disturbance.

The bill would not apply to:

- the federal or state government or a governmental entity or someone under contract with or acting under the direction of one of these entities;
- law enforcement agencies or persons under contract with or acting under the direction of a law enforcement agency;
- owners or operators of the facility or someone under contract with or acting under the direction or on behalf of an owner or operator of the facility;
- someone with the prior written consent of the owner or operator of the facility; or
- operators of unmanned aircrafts being used for a commercial purpose, if the operator was authorized by the Federal Aviation Administration to conduct operations over the airspace.

Offenses would be class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000). Repeat offenses would be class A misdemeanors (up to one year in jail and/or a maximum fine of \$4,000).

The bill would take effect September 1, 2015.

SUPPORTERS
SAY:

CSHB 1481 is needed to ensure the safety and security of the state's critical infrastructure facilities in the face of the increased use of unmanned aircraft. Unrestricted use of these crafts over critical infrastructure can pose safety and security risks to people, property, communities, and other aircraft. For example, an unmanned aircraft could fall or be piloted into a critical part of a facility, creating a hazardous or threatening situation. While federal regulations address some of the situations described in CSHB 1481, the regulations are considered guidelines without the force of law.

CSHB 1481 would address this gap in the law by creating an offense that would be similar to provisions under the offense of criminal trespassing that covers trespassing on critical infrastructure facilities. CSHB 1481

contains safeguards to ensure the offense would be applied only when appropriate. Facilities would have to be enclosed or clearly marked so that individuals had notice that entry was forbidden. To commit the offense, individuals would have to knowingly and intentionally commit certain actions, ensuring that someone making an honest mistake with no ill intent would not fall under the bill's provisions. The bill also would require that the unmanned aircraft be low, make contact, or be close enough to interfere or cause a disturbance. The bill would make necessary and reasonable exceptions to the offense, including ones for the use of unmanned aircraft by the government, law enforcement, and owners and operators of the facilities

**OPPONENTS
SAY:**

CSHB 1481 would create an offense that could encompass some who intend no harm. Flying an unmanned aircraft over a facility can be significantly different from trespassing on the land of a critical infrastructure facility. For example, it could be difficult to know the property boundaries from the air, unlike on land where things can be clearly marked.