

SUBJECT: Creating an offense for operating unmanned aircraft over certain facilities

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang,
Wilson

0 nays

WITNESSES: For — Matt May, Houston Police Department; Rodney Thompson, Texas Probation Association; Noel Johnson, Texas Municipal Police Association; (*Registered, but did not testify*: Frank Dixon, Austin Police Department; Jennifer Wichmann, City of Arlington; Jesse Ozuna, City of Houston Mayor's Office; Arianna Smith, Combined Law Enforcement Associations of Texas (CLEAT); Neal T. "Buddy" Jones, Dallas Cowboys, Texas Motor Speedway; Gary Tittle, Dallas Police Department's Office of the Chief of Police; Colin Parrish and Amanda Schar, Harris County-Houston Sports Authority; Jay Howard, Houston Astros, Texas Rangers Baseball Club; John Greytok, Houston Texans; Martin Hubert, Rice University; James Jones, San Antonio Police Department; Donald Lee, Texas Conference of Urban Counties; Monty Wynn, Texas Municipal League; Mike Gomez, Texas Municipal Police Association; Julie Wheeler, Travis County Commissioners Court)

Against — (*Registered, but did not testify*: Ray Sullivan, Association for Unmanned Vehicle Systems International; CJ Grisham, Open Carry Texas; Chisholm)

On — Bryan Collier, Texas Department of Criminal Justice; (*Registered, but did not testify*: Ray Sullivan, Amazon; Caroline Joiner, TechNet)

BACKGROUND: Government Code, sec. 423.0045 makes it an offense for a person to intentionally or knowingly:

- operate an unmanned aircraft less than 400 feet above ground level over a critical infrastructure facility;

- allow an unmanned aircraft to make contact with a critical infrastructure facility, including a person or object on the premises; or
- allow an unmanned aircraft to come close enough to disturb or interfere with the operations of a facility.

A first-time offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), and a subsequent offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

These provisions do not apply in certain circumstances, including if the conduct was committed by:

- the federal or state government or a governmental entity or someone acting on behalf of one of these entities;
- a law enforcement agency or a person acting on behalf of an agency; or
- an operator using the unmanned aircraft for a commercial purpose with authorization from the Federal Aviation Administration to conduct operations over the airspace.

DIGEST:

HB 1424 would add correctional and detention facilities to areas over which certain operations of unmanned aircraft are a criminal offense under Government Code, sec. 423.0045.

The bill also would create an offense for operating an unmanned aircraft less than 400 feet above ground level over certain sports venues, unless the operator was:

- a governmental or law enforcement entity or acting on behalf of such an entity;
- using the unmanned aircraft for a commercial purpose and was authorized by the Federal Aviation Administration to conduct operations over the airspace; or
- the owner/operator of the venue or acting with consent from the owner/operator.

The bill would apply only to venues with a seating capacity of at least 30,000 that were primarily used for one or more professional or amateur athletic events.

The bill would take effect September 1, 2017, and apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 1424 would address concerns that law enforcement currently does not have the ability to restrict drone flights over correctional facilities or large-capacity stadiums, resulting in an increased risk to public safety. Drones can reliably carry and deliver small packages and weapons. With the speed at which drone technology is evolving and the ease with which drones can be acquired, the opportunities for nefarious uses have increased.

It is not always possible to know the intent of a drone's operator, which causes concerns for law enforcement upon seeing one. In some instances, packages including drugs, weapons, or other contraband have been flown into correctional facilities. Unauthorized videos of a sports venue focusing on the structure and its entrances and exits could be used in ways that put the public at risk.

While the Federal Aviation Administration (FAA) has the authority to regulate airspace and has created measures to restrict drone operations above sports venues and correctional facilities, local law enforcement does not enforce FAA regulations. The FAA also has indicated that local authorities often are better positioned to detect and deter unauthorized or unsafe drone operations. This bill would give local law enforcement the ability to respond to these events in certain environments and investigate an operator's intent by establishing a criminal offense under state law.

The bill would protect legitimate and permitted drone usage by providing exceptions for facility owners or operators, law enforcement, and government entities. Additionally, any facility owner or operator could give an individual operator permission to conduct drone flights without

seeking governmental approval, and commercial operators could be permitted by the FAA.

OPPONENTS
SAY:

HB 1424 could cause conflict with federal regulation of airspace, add unnecessary restrictions, and potentially hinder the state's drone industry.

By prohibiting drone flights over certain facilities, the bill would regulate airspace, currently the purview of the FAA. Regulating airspace should be left to the federal government to preserve a consistent and efficient system that enhances safety. It is unnecessary to increase the scope of state government because states have a process to petition the FAA to seek additional airspace restrictions.

Federal regulations cover behavior such as careless or reckless aircraft operations, which could include delivering contraband to a correctional facility by drone. The bill would unnecessarily restrict drone operations over sports venues because the FAA already issues temporary flight restrictions prohibiting aircraft operations below 3,000 feet above ground level over stadiums with a seating capacity of at least 30,000.

Legislation restricting use of drones could result in unintended consequences and negatively affect the fast-growing industry in Texas. Hundreds of companies currently incorporate drones into their daily operation, and the bill could discourage companies and individuals that were considering commercial drone adoption.