

**SUBJECT:** Prohibiting drone operations over concentrated animal feeding operations

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 7 ayes — Nevárez, Burns, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

2 absent — P. King, Hinojosa

**WITNESSES:** For — Josh Winegarner, Texas Cattle Feeders Association; (*Registered, but did not testify*: Elizabeth Nezda, AT&T; Micah Harmon, AJ Louderback, William Mills, Ricky Scaman, and Henry Trochesset, Sheriffs' Association of Texas; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Shayne Woodard, Texas Association of Dairymen; Mitch Landry, Texas Municipal Police Association (TMPA); Angela Smith; Doris Spraggins)

Against — Irl Barg and Joshua Cohn, EFF-Austin; Judith McGeary, Farm and Ranch Freedom Alliance; Josh Turner, TechNet; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; 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, as defined in the provision;
- 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).

Water Code, sec. 26.048 defines a concentrated animal feeding operation as a concentrated, confined livestock or poultry facility that is operated for meat, milk, or egg production or for growing, stabling, or housing livestock or poultry in pens or houses, in which livestock or poultry are fed at the place of confinement and crop or forage growth or feed is not produced in the confinement area.

**DIGEST:** CSHB 1643 would add concentrated animal feeding operations to areas over which certain operations of unmanned aircraft are a criminal offense under Government Code, sec. 423.0045.

Structures used as part of a system to provide wired or wireless telecommunications services would be added to the provision that prohibits unmanned aircraft operations over a telecommunications switching office.

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

**SUPPORTERS SAY:** CSHB 1643 would protect the economic interests of Texas' farmers by making it a crime to fly drones over concentrated animal feeding operations. The U.S. Department of Homeland Security (DHS) has designated the feed lots of Texas' multibillion-dollar cattle industry as a soft target. Due to the national economic damage that could be incurred as a result of harm to the food supply, DHS also has listed food and agriculture as one of the 16 critical infrastructure sectors.

It is not always possible to know the intent of a drone's operator, which causes concerns for farmers and ranchers upon seeing one. 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, including poisoning a food supply at a feed lot. Further, drones reportedly have caused damage by startling livestock.

Although the federal government regulates airspace, federal aviation officials have 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 investigate an operator's intent by establishing a criminal offense under state law.

OPPONENTS  
SAY:

CSHB 1643 is unnecessary because it already is a crime to fly drones over private property and capture images, punishable by a fine. By moving feed lots to the list of critical infrastructure, the bill would raise the penalty to potentially include jail time. While feed lots are valuable private property, they do not deserve the special classification of critical infrastructure.

Although concerns about people poisoning the food supply or harassing cattle are valid, there are more effective ways to address the problem than banning drone overflights and imposing an excessive penalty. Current state animal cruelty laws could be modified or adapted, and federal law already suggests that the conduct addressed by the bill is unlawful.

The bill unnecessarily would increase the scope of state government. The regulation of airspace should remain the purview of the federal government to preserve a consistent system that enhances safety.

NOTES:

A companion bill, SB 1319 by Seliger, was referred to the Senate Criminal Justice Committee on March 14.