

1 AN ACT

2 relating to investigating and prosecuting the criminal offense of
3 operating an unmanned aircraft over or near certain facilities.

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

5 SECTION 1. Section 423.0045(a)(1), Government Code, as
6 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of
7 the 85th Legislature, Regular Session, 2017, is reenacted to read
8 as follows:

9 (1) "Correctional facility" means:

10 (A) a confinement facility operated by or under
11 contract with any division of the Texas Department of Criminal
12 Justice;

13 (B) a municipal or county jail;

14 (C) a confinement facility operated by or under
15 contract with the Federal Bureau of Prisons; or

16 (D) a secure correctional facility or secure
17 detention facility, as defined by Section 51.02, Family Code.

18 SECTION 2. Section 423.0045(a)(1-a), Government Code, is
19 reenacted to conform to the changes made to Section 423.0045(a)(1),
20 Government Code, by Chapter 824 (H.B. 1643), Acts of the 85th
21 Legislature, Regular Session, 2017, and is further amended to read
22 as follows:

23 (1-a) "Critical infrastructure facility" means:

24 (A) one of the following, if completely enclosed

1 by a fence or other physical barrier that is obviously designed to
2 exclude intruders, or if clearly marked with a sign or signs that
3 are posted on the property, are reasonably likely to come to the
4 attention of intruders, and indicate that entry is forbidden:

5 (i) a petroleum or alumina refinery;

6 (ii) an electrical power generating
7 facility, substation, switching station, or electrical control
8 center;

9 (iii) a chemical, polymer, or rubber
10 manufacturing facility;

11 (iv) a water intake structure, water
12 treatment facility, wastewater treatment plant, or pump station;

13 (v) a natural gas compressor station;

14 (vi) a liquid natural gas terminal or
15 storage facility;

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

19 (viii) a port, railroad switching yard,
20 trucking terminal, or other freight transportation facility;

21 (ix) a gas processing plant, including a
22 plant used in the processing, treatment, or fractionation of
23 natural gas;

24 (x) a transmission facility used by a
25 federally licensed radio or television station;

26 (xi) a steelmaking facility that uses an
27 electric arc furnace to make steel;

1 (xii) a dam that is classified as a high
2 hazard by the Texas Commission on Environmental Quality; ~~[or]~~

3 (xiii) a concentrated animal feeding
4 operation, as defined by Section 26.048, Water Code; or

5 (xiv) a military installation owned or
6 operated by or for the federal government, the state, or another
7 governmental entity; or

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

10 (i) any portion of an aboveground oil, gas,
11 or chemical pipeline;

12 (ii) an oil or gas drilling site;

13 (iii) a group of tanks used to store crude
14 oil, such as a tank battery;

15 (iv) an oil, gas, or chemical production
16 facility;

17 (v) an oil or gas wellhead; or

18 (vi) any oil and gas facility that has an
19 active flare.

20 SECTION 3. Section 423.0045, Government Code, is amended by
21 amending Subsection (b) and adding Subsection (e) to read as
22 follows:

23 (b) A person commits an offense if the person with criminal
24 negligence ~~[intentionally or knowingly]~~:

25 (1) operates an unmanned aircraft over a correctional
26 facility, detention facility, or critical infrastructure facility
27 and the unmanned aircraft is not higher than 400 feet above ground

1 level;

2 (2) allows an unmanned aircraft to make contact with a
3 correctional facility, detention facility, or critical
4 infrastructure facility, including any person or object on the
5 premises of or within the facility; or

6 (3) allows an unmanned aircraft to come within a
7 distance of a correctional facility, detention facility, or
8 critical infrastructure facility that is close enough to interfere
9 with the operations of or cause a disturbance to the facility.

10 (e) A peace officer who investigates an offense under this
11 section shall notify the Department of Public Safety of the
12 investigation. The department may require further information from
13 the officer as the department determines necessary.

14 SECTION 4. Section 423.0045(c), Government Code, as amended
15 by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of the 85th
16 Legislature, Regular Session, 2017, is reenacted to read as
17 follows:

18 (c) This section does not apply to:

19 (1) conduct described by Subsection (b) that involves
20 a correctional facility, detention facility, or critical
21 infrastructure facility and is committed by:

22 (A) the federal government, the state, or a
23 governmental entity;

24 (B) a person under contract with or otherwise
25 acting under the direction or on behalf of the federal government,
26 the state, or a governmental entity;

27 (C) a law enforcement agency;

1 (D) a person under contract with or otherwise
2 acting under the direction or on behalf of a law enforcement agency;
3 or

4 (E) an operator of an unmanned aircraft that is
5 being used for a commercial purpose, if the operation is conducted
6 in compliance with:

7 (i) each applicable Federal Aviation
8 Administration rule, restriction, or exemption; and

9 (ii) all required Federal Aviation
10 Administration authorizations; or

11 (2) conduct described by Subsection (b) that involves
12 a critical infrastructure facility and is committed by:

13 (A) an owner or operator of the critical
14 infrastructure facility;

15 (B) a person under contract with or otherwise
16 acting under the direction or on behalf of an owner or operator of
17 the critical infrastructure facility;

18 (C) a person who has the prior written consent of
19 the owner or operator of the critical infrastructure facility; or

20 (D) the owner or occupant of the property on
21 which the critical infrastructure facility is located or a person
22 who has the prior written consent of the owner or occupant of that
23 property.

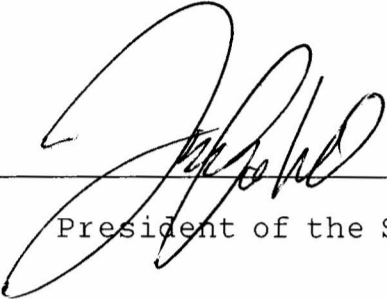
24 SECTION 5. Section 423.0045, Government Code, as amended by
25 this Act, applies only to an offense committed on or after the
26 effective date of this Act. An offense committed before the
27 effective date of this Act is governed by the law in effect on the

1 date the offense was committed, and the former law is continued in
2 effect for that purpose. For purposes of this section, an offense
3 was committed before the effective date of this Act if any element
4 of the offense occurred before that date.

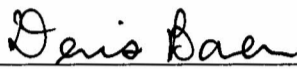
5 SECTION 6. To the extent of any conflict, this Act prevails
6 over another Act of the 86th Legislature, Regular Session, 2019,
7 relating to nonsubstantive additions to and corrections in enacted
8 codes.

9 SECTION 7. This Act takes effect September 1, 2019.

H.B. No. 3082



President of the Senate



Speaker of the House

I certify that H.B. No. 3082 was passed by the House on May 3, 2019, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3082 on May 24, 2019, by the following vote: Yeas 142, Nays 0, 2 present, not voting.



Chief Clerk of the House

I certify that H.B. No. 3082 was passed by the Senate, with amendments, on May 21, 2019, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate


APPROVED: _____

Date

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45 pm O'CLOCK

JUN 15 2019



Secretary of State

PROCLAMATION
BY THE
Governor of the State of Texas
41-3662

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto House Bill No. 3082 as passed by the Eighty-Sixth Texas Legislature, Regular Session, because of the following objections:

Current law already imposes criminal penalties for the conduct addressed in House Bill 3082. This proposed legislation would expose too many Texans to criminal liability for unintentional conduct. Negligently flying a drone over a railroad switching yard should not result in jail time.

Since the Eighty-Sixth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2019.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor of Texas

ATTESTED BY:

Handwritten signature of Joe Esparza in black ink.

JOE ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:45pm O'CLOCK

JUN 15 2019