

1 HB36
2 203652-1
3 By Representative Brown (C)
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 04-FEB-20
6 PFD: 01/23/2020

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8 SYNOPSIS: Existing law provides for the commission of
9 the crime of unauthorized entry of a critical
10 infrastructure.

11 This bill would further provide for the
12 crime of unauthorized entry of a critical
13 infrastructure by prohibiting the operation of an
14 unmanned aircraft system, or drone, to conduct
15 surveillance of, gather evidence or collect
16 information about, or photographically or
17 electronically record a critical infrastructure
18 except under certain conditions.

19 This bill would further define the term
20 critical infrastructure to include the term
21 pipeline.

22 This bill would provide enhanced criminal
23 penalties when a person damages a critical
24 infrastructure while committing the crime of
25 unauthorized entry of a critical infrastructure.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to criminal trespass; to amend Section
25 13A-7-4.3, Code of Alabama 1975, to further provide for the
26 crime of unauthorized entry of a critical infrastructure; to
27 further provide criminal penalties; and in connection

1 therewith would have as its purpose or effect the requirement
2 of a new or increased expenditure of local funds within the
3 meaning of Amendment 621 of the Constitution of Alabama of
4 1901, now appearing as Section 111.05 of the Official
5 Recompilation of the Constitution of Alabama of 1901, as
6 amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 13A-7-4.3, Code of Alabama 1975,
9 is amended to read as follows:

10 "§13A-7-4.3.

11 "(a) For the purposes of this section, the following
12 words have the following meanings:

13 "(1) CRITICAL INFRASTRUCTURE. The term includes, but
14 is not limited to, a chemical manufacturing facility, a
15 pipeline, a refinery, an electrical power generating facility
16 and the area surrounding the facility, an electrical
17 transmission or distribution tower, ~~and~~ substation, ~~and~~
18 ~~distribution substation~~ or associated facility, an electric
19 utility control center, communication equipment, a switching
20 station, a water intake structure and water treatment
21 facility, a natural gas transmission compressor station, a
22 liquefied natural gas (LNG) terminal and storage facility, a
23 natural gas and hydrocarbon storage facility, and a
24 transportation facility, such as a port, railroad operating
25 facility, ~~or~~ trucking terminal, any facility designated as
26 critical infrastructure under 18 U.S.C. § 2339D, and any
27 industrial plant or facility of any of the foregoing.

1 "(2) FRAUDULENT DOCUMENTS FOR IDENTIFICATION
2 PURPOSES. A document which is presented as being a bona fide
3 document that provides personal identification information but
4 which, in fact, is false, forged, altered, or counterfeit.

5 "(3) PERSON. A natural person and, where
6 appropriate, a public or private corporation, an
7 unincorporated association, a partnership, or other private
8 entity.

9 "(4) PIPELINE. Flow, transmission, distribution, or
10 gathering lines, regardless of size or length, that transmit
11 or transport oil, gas, petrochemicals, minerals, or water in a
12 solid, liquid, or gaseous state.

13 "(5) UNMANNED AIRCRAFT SYSTEM. A powered, aerial
14 vehicle that does not carry a human operator, uses aerodynamic
15 forces to provide vehicle lift, may fly autonomously through
16 an onboard computer or be piloted remotely, and may be
17 expendable or recoverable. The term does not include a
18 satellite orbiting the Earth or a spacecraft beyond Earth's
19 atmosphere, and may not be construed to implicate the provider
20 of a telecommunications link between an owner or operator of
21 an unmanned aircraft system and the unmanned aircraft system.

22 "(b) A person commits the crime of unauthorized
23 entry of a critical infrastructure if the person does any of
24 the following:

25 "(1) Intentionally enters without authority into any
26 structure or onto any premises belonging to another that
27 constitutes in whole or in part a critical infrastructure that

1 is completely enclosed by any type of physical barrier or
2 clearly marked with a sign or signs that are posted in a
3 conspicuous manner and indicate that unauthorized entry is
4 forbidden.

5 "(2) Uses or attempts to use a fraudulent document
6 for identification for the purpose of entering a critical
7 infrastructure.

8 "(3) Remains upon or on the premises of a critical
9 infrastructure after having been forbidden to do so, either
10 orally or in writing, by any owner, lessee, or custodian of
11 the property or by any other authorized person.

12 "(4) Intentionally enters into a restricted area of
13 a critical infrastructure which is marked as a restricted or
14 limited access area that is completely enclosed by any type of
15 physical barrier when the person is not authorized to enter
16 the restricted or limited access area.

17 "(5)a. Knowingly operates, or permits, authorizes,
18 or directs another person to operate, an unmanned aircraft
19 system over a critical infrastructure less than 400 feet above
20 ground level to conduct surveillance of, gather evidence or
21 collect information about, or photographically or
22 electronically record the critical infrastructure without the
23 permission of the owner or operator of the critical
24 infrastructure.

25 "b. This subdivision does not apply to an unmanned
26 aircraft system operated by any of the following:

27 "1. The federal government.

1 "2. The state or a political subdivision of the
2 state.

3 "3. The owner or operator of the critical
4 infrastructure.

5 "4. Any person who has a valid lease, servitude,
6 right-of-way, right of use, license, or other right granted by
7 the owner or operator of the critical infrastructure.

8 "5. A law enforcement agency, emergency medical
9 service agency, hazardous material response team, disaster
10 management agency, or other emergency management agency for
11 the purpose of incident command, area reconnaissance,
12 personnel and equipment deployment monitoring, training, or a
13 related purpose.

14 "6. An insurance company that is authorized to
15 operate by the owner or operator of the critical
16 infrastructure and is operating for the purpose of
17 underwriting an insurance risk or investigating damage to
18 insured property.

19 "7. Any person when in strict compliance with a
20 court order.

21 "(c) A person who commits the crime of unauthorized
22 entry of a critical infrastructure is guilty of a Class A
23 misdemeanor.

24 "(d) If, during the commission of the crime of
25 unauthorized entry of a critical infrastructure, the person
26 injures, removes, destroys, breaks, or otherwise interrupts or

1 interferes with the operations of a critical infrastructure
2 asset, the person is guilty of a Class C felony.

3 "~~(d)~~ (e) Nothing in this section shall be construed
4 to prevent lawful assembly and peaceful and orderly petition
5 for the redress of grievances, including, but not limited to,
6 any labor dispute between any employer and its employee."

7 Section 2. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621 because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

13 Section 3. This act shall become effective on the
14 first day of the third month following its passage and
15 approval by the Governor, or its otherwise becoming law.