

2016 Regular Session

SENATE BILL NO. 472 (Substitute of Senate Bill No. 124 by Senator Claitor)

BY SENATOR CLAITOR

CRIME/PUNISHMENT. Provides relative to crimes involving the use of an unmanned aircraft system. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:2(A)(12), 14:40.2(A), 62.3(A), 62.4(A), 63.3(A), and 337(D),

3 to enact R.S. 14:2(A)(13) and 59(A)(10), and to repeal R.S. 14:337(B)(4), relative

4 to crimes committed by means of an unmanned aircraft system; to provide that the

5 crimes of stalking, criminal mischief, unauthorized entry of an inhabited dwelling,

6 unauthorized entry of a place of business, and entry or remaining after being

7 forbidden can be committed by means of an unmanned aircraft system; to provide

8 definitions; to provide relative to federal preemption; and to provide for related

9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 14:2(A)(12), 14:40.2(A), 62.3(A), 62.4(A), 63.3(A), and 337(D) are

12 hereby amended and reenacted and R.S. 14:14:2(A)(13) and 59(A)(10) are hereby enacted

13 to read as follows:

14 §2. Definitions

15 A. In this Code the terms enumerated shall have the designated meanings:

16 * * *

17 (12) "Unmanned aircraft system" means an unmanned, powered aircraft

1 or similar instrumentality that does not carry a human operator, can be
2 autonomous or remotely piloted or operated, and can be expendable or
3 recoverable. "Unmanned aircraft system" does not include any of the following:

4 (a) A satellite orbiting the earth.

5 (b) An unmanned aircraft system used by the federal government or a
6 person who is acting pursuant to contract with the federal government to
7 conduct surveillance of specific activities.

8 (c) An unmanned aircraft system used by the state government or a
9 person who is acting pursuant to a contract with the state government to
10 conduct surveillance of specific activities.

11 (d) An unmanned aircraft system used by a local government law
12 enforcement agency or fire department.

13 (13) "Whoever" in a penalty clause refers only to natural persons insofar as
14 death or imprisonment is provided, but insofar as a fine may be imposed "whoever"
15 in a penalty clause refers to any person.

16 * * *

17 §40.2. Stalking

18 A. Stalking is the intentional and repeated following or harassing of another
19 person that would cause a reasonable person to feel alarmed or to suffer emotional
20 distress. Stalking shall include but not be limited to the intentional and repeated
21 uninvited presence of the perpetrator at another person's home, workplace, school,
22 or any place which would cause a reasonable person to be alarmed, or to suffer
23 emotional distress as a result of verbal, written, or behaviorally implied threats of
24 death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act
25 to himself or any member of his family or any person with whom he is acquainted.

26 For purposes of this Subsection, the phrase "intentional and repeated uninvited
27 presence of the perpetrator" includes the intentional and repeated uninvited
28 presence of an unmanned aircraft system operated by the perpetrator.

29 * * *

1 §59. Criminal mischief

2 A. Criminal mischief is the intentional performance of any of the following
3 acts:

4 (1) Tampering with any property of another, without the consent of the
5 owner, with the intent to interfere with the free enjoyment of any rights of anyone
6 thereto, or with the intent to deprive anyone entitled thereto of the full use of the
7 property.

8 (2) Giving of any false alarm of fire or notice which would reasonably result
9 in emergency response.

10 (3) Driving of any tack, nail, spike or metal over one and one-half inch in
11 length into any tree located on lands belonging to another, without the consent of the
12 owner, or without the later removal of the object from the tree.

13 (4) The felling, topping, or pruning of trees or shrubs within the right-of-way
14 of a state highway, without prior written approval of the chief engineer of the
15 Department of Transportation and Development or his designated representative,
16 provided prior written approval is not required for agents or employees of public
17 utility companies in situations of emergency where the person or property of others
18 is endangered.

19 (5) Giving of any false report or complaint to a sheriff, or his deputies, or to
20 any officer of the law relative to the commission of, or an attempt to commit, a
21 crime.

22 (6) Throwing any stone or any other missile in any street, avenue, alley, road,
23 highway, open space, public square, or enclosure, or throwing any stone, missile, or
24 other object from any place into any street, avenue, road, highway, alley, open space,
25 public square, enclosure, or at any train, railway car, or locomotive.

26 (7) Taking temporary possession of any part or parts of a place of business,
27 or remaining in a place of business after the person in charge of such business or
28 portion of such business has directed such person to leave the premises and to desist
29 from the temporary possession of any part or parts of such business.

1 (8) The communication to any person for the purpose of disrupting any public
2 utility water service, when the communication causes any officer, employee, or agent
3 of the service reasonably to be placed in sustained fear for his or another person's
4 safety, or causes the evacuation of a water service building, or causes any
5 discontinuance of any water services.

6 (9) The discharging of any firearm at a train, locomotive, or railway car.

7 (10) ~~Repealed by Acts 2008, No. 8, §2, eff. August 15, 2008.~~ **The**
8 **commission of any act prohibited by this Subsection by means of an unmanned**
9 **aircraft system when such act is not otherwise prohibited by law.**

10 * * *

11 §62.3. Unauthorized entry of an inhabited dwelling

12 A. **(1)** Unauthorized entry of an inhabited dwelling is the intentional entry by
13 a person without authorization into any inhabited dwelling or other structure
14 belonging to another and used in whole or in part as a home or place of abode by a
15 person.

16 **(2) For purposes of this Subsection, the phrase "entry by a person" in**
17 **addition to its common meaning, signification, and connotation, shall include**
18 **the operation of an unmanned aircraft system by the person.**

19 * * *

20 §62.4. Unauthorized entry of a place of business

21 A. **(1)** Unauthorized entry of a place of business is the intentional entry by a
22 person without authority into any structure or onto any premises, belonging to
23 another, that is completely enclosed by any type of physical barrier that is at least six
24 feet in height, or by a combination of any type of physical barrier that is at least six
25 feet in height and a lake, river, bayou, or other body of water, and that is used in
26 whole or in part as a place of business. Nothing in this Section shall prohibit the
27 ability of a person to dock a boat, vessel, or other watercraft on the bank of a
28 navigable waterway for a reasonable period of time under any of the following
29 circumstances:

- 1 ~~(1)~~ **(a)** The watercraft is experiencing a mechanical or operating problem.
- 2 ~~(2)~~ **(b)** Any person aboard the watercraft is experiencing a medical
- 3 emergency.
- 4 ~~(3)~~ **(c)** Any other condition exists that prevents the watercraft from
- 5 proceeding on the waterway.

(2) For purposes of this Subsection, the phrase "entry by a person" in addition to its common meaning, signification, and connotation, shall include the operation of an unmanned aircraft system by the person.

* * *

§63.3. Entry on or remaining in places or on land after being forbidden

A. ~~(1)~~ **(1)** No person shall without authority go into or upon or remain in or upon or attempt to go into or upon or remain in or upon any structure, watercraft, or any other movable, or immovable property, which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, after having been forbidden to do so, either orally or in writing, including by means of any sign hereinafter described, by any owner, lessee, or custodian of the property or by any other authorized person. For the purposes of this Section, the above mentioned sign means a sign or signs posted on or in the structure, watercraft, or any other movable, or immovable property, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.

(2) For purposes of this Subsection, the phrase "go into or upon or remain in or upon or attempt to go into or upon or remain in or upon" in addition to its common meaning, signification, and connotation, shall include the operation of an unmanned aircraft system by the person.

* * *

§337. Unlawful use of an unmanned aircraft system

* * *

~~D. The provisions of this Section shall apply unless preempted by applicable~~

1 ~~federal law or by regulations adopted by the Federal Aviation Administration~~ **This**
 2 **Section shall not apply to any person operating an unmanned aircraft system**
 3 **in compliance with federal statute or Federal Aviation Administration**
 4 **regulations or authorization.**

* * *

6 Section 2. R.S. 14:337(B)(4) is hereby repealed in its entirety.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

SB 472 Original 2016 Regular Session Claitor

Present law provides definitions applicable to various present law crimes.

Proposed law retains present law and adds that "unmanned aircraft system" means an unmanned, powered aircraft or similar instrumentality that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

Proposed law provides that "unmanned aircraft system" does not include any of the following:

- (1) A satellite orbiting the earth.
- (2) An unmanned aircraft system used by the federal government or a person who is acting pursuant to contract with the federal government to conduct surveillance of specific activities.
- (3) An unmanned aircraft system used by the state government or a person who is acting pursuant to a contract with the state government to conduct surveillance of specific activities.
- (4) An unmanned aircraft system used by a local government law enforcement agency or fire department.

Present law provides that the crime of stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress, and includes the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom

he is acquainted.

Proposed law retains present law and adds that for purposes of present law the phrase "intentional and repeated uninvited presence of the perpetrator" includes the intentional and repeated uninvited presence of an unmanned aircraft system operated by the perpetrator.

Present law provides that criminal mischief is the intentional performance of any of the following acts:

- (1) Tampering with any property of another, without the consent of the owner, with the intent to interfere with the free enjoyment of any rights of anyone thereto, or with the intent to deprive anyone entitled thereto of the full use of the property.
- (2) Giving of any false alarm of fire or notice which would reasonably result in emergency response.
- (3) Driving of any tack, nail, spike or metal over one and one-half inch in length into any tree located on lands belonging to another, without the consent of the owner, or without the later removal of the object from the tree.
- (4) The felling, topping, or pruning of trees or shrubs within the right-of-way of a state highway, without prior written approval of the chief engineer of the Dept. of Transportation and Development or his designated representative, provided prior written approval is not required for agents or employees of public utility companies in situations of emergency where the person or property of others is endangered.
- (5) Giving of any false report or complaint to a sheriff, or his deputies, or to any officer of the law relative to the commission of, or an attempt to commit, a crime.
- (6) Throwing any stone or any other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, or throwing any stone, missile, or other object from any place into any street, avenue, road, highway, alley, open space, public square, enclosure, or at any train, railway car, or locomotive.
- (7) Taking temporary possession of any part or parts of a place of business, or remaining in a place of business after the person in charge of such business or portion of such business has directed such person to leave the premises and to desist from the temporary possession of any part or parts of such business.
- (8) The communication to any person for the purpose of disrupting any public utility water service, when the communication causes any officer, employee, or agent of the service reasonably to be placed in sustained fear for his or another person's safety, or causes the evacuation of a water service building, or causes any discontinuance of any water services.
- (9) The discharging of any firearm at a train, locomotive, or railway car.

Proposed law retains present law and adds that criminal mischief is also the performance of any of the aforementioned acts by means of an unmanned aircraft system when such act is not otherwise prohibited by present law.

Present law provides that the crime of unauthorized entry of an inhabited dwelling is the intentional entry by a person without authorization into any inhabited dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person.

Proposed law retains present law and adds that for the purposes of present law the phrase "entry by a person" includes the operation of an unmanned aircraft system by the person.

Present law provides that the crime of unauthorized entry of a place of business is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that is completely enclosed by any type of physical barrier that is at least six feet in height, or by a combination of any type of physical barrier that is at least six feet in height and a lake, river, bayou, or other body of water, and that is used in whole or in part as a place of business.

Proposed law retains present law and adds that for purposes of present law the phrase "entry by a person" includes the operation of an unmanned aircraft system by the person.

Present law provides that the crime of remaining in places or on land after being forbidden is committed when a person without authority goes into or upon or remains in or upon or attempts to go into or upon or remains in or upon any structure, watercraft, or any other movable or immovable property belonging to another after having been forbidden to do so, either orally or in writing, by any owner, lessee, or custodian of the property or by any other authorized person.

Proposed law retains present law and adds that the phrase "go into or upon or remain in or upon or attempt to go into or upon or remain in or upon" includes the operation of an unmanned aircraft system by the person.

Present law provides relative to the crime of unlawful use of an unmanned aircraft system, including a definition of "unmanned aircraft system" for purposes of present law.

Proposed law deletes the definition of "unmanned aircraft system" from the present law crime of unlawful use of an unmanned aircraft system in favor of the definition provided by proposed law.

Present law provides that present law relative to the crime of unlawful use of an unmanned aircraft system applies unless it is preempted by applicable federal law or by regulations adopted by the Federal Aviation Administration (FAA).

Proposed law deletes this provision of present law and adds that present law relative to the crime of unlawful use of an unmanned aircraft system does not apply to any person operating an unmanned aircraft system in compliance with federal statute or FAA regulations or authorization.

Proposed law otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:2(A)(12), 14:40.2(A), 62.3(A), 62.4(A), 63.3(A), and 337(D); adds R.S. 14:2(A)(13) and 59(A)(10); repeals R.S. 14:337(B)(4))