

1 SB378
2 174060-3
3 By Senator Orr
4 RFD: Transportation and Energy
5 First Read: 05-APR-16

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8 SYNOPSIS: This bill would create the Alabama Unmanned
9 Aircraft Systems Act to prohibit the use of an
10 unmanned aircraft system to fly over certain
11 designated manufacturing and commercial facilities
12 without permission of the owner of the facility, to
13 harass persons who are hunting and fishing, or to
14 use the system to aid in hunting or fishing, would
15 provide criminal penalties for violations, and
16 would authorize injunctive relief.

17 This bill would provide criminal penalties
18 for using an unmanned aircraft system to disrupt
19 the operation of a manned flight or motor vehicles
20 on roadways, would prohibit the sale, transport,
21 manufacture, or possession of a system equipped
22 with a weapon, or to interfere with law enforcement
23 officers or certain emergency medical
24 professionals.

25 This bill also would prohibit governmental
26 agencies from using unmanned aircraft systems to
27 gather evidence or other information, except under

1 certain conditions, and would authorize the
2 initiation of a civil action by persons injured by
3 violations.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, now appearing as Section 111.05 of the
6 Official Recompilation of the Constitution of
7 Alabama of 1901, as amended, prohibits a general
8 law whose purpose or effect would be to require a
9 new or increased expenditure of local funds from
10 becoming effective with regard to a local
11 governmental entity without enactment by a 2/3 vote
12 unless: it comes within one of a number of
13 specified exceptions; it is approved by the
14 affected entity; or the Legislature appropriates
15 funds, or provides a local source of revenue, to
16 the entity for the purpose.

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

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 Relating to unmanned aircraft systems; to prohibit
3 the use of an unmanned aircraft system to fly over certain
4 designated facilities; to prohibit the use of an unmanned
5 aircraft system to harass a person hunting or fishing or to
6 aid in hunting or fishing; to provide criminal penalties; to
7 authorize injunctive relief under certain conditions for
8 violations; to provide for an award of damages for violations;
9 to prohibit governmental agencies from using unmanned aircraft
10 systems to gather evidence or other information; to provide
11 exceptions; to authorize the initiation of a civil action by
12 persons injured by violations; to provide rulemaking
13 authority; and in connection therewith would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901, now appearing as
17 Section 111.05 of the Official Recompilation of the
18 Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall be known and may be cited
21 as the Unmanned Aircraft Systems Act.

22 Section 2. The Legislature finds and declares the
23 following:

24 (1) That Unmanned Aircraft System (UAS) technology
25 represents a great new frontier in research and development
26 and a substantial economic opportunity.

1 (2) That UAS technology also raises substantial
2 issues of privacy and safety that should be addressed in a
3 reasonable and measured manner.

4 (3) That the Federal Aviation Administration
5 regulates safety aspects of UAS operation in FAA controlled
6 airspace.

7 (4) That state-based policies have been created by
8 the UAS Council to provide reasonable and measured regulation
9 of UAS use.

10 Section 3. For purposes of this act, the following
11 words shall have the following meanings:

12 (1) DESIGNATED FACILITY. The following facilities:

13 a. Petroleum refineries.

14 b. Chemical and rubber manufacturing facilities.

15 c. Petroleum or chemical storage facilities.

16 d. Electric generation facilities, substations,
17 switching stations, or control centers.

18 e. Rail yard facilities.

19 f. Commercial port and harbor facilities.

20 g. Drinking water treatment facilities.

21 (2) GOVERNMENT AGENCY. Any municipal, county, state,
22 or federal agency the personnel of which have the power of
23 arrest and the performance of a law enforcement function and
24 any third-party unmanned aircraft system operator retained by
25 any of the agencies above to act on the agencies' behalf. The
26 term does not include public educational institutions or

1 research institutions, except when an institution is utilizing
2 a unmanned aircraft system in a law enforcement capacity.

3 (3) MANNED AIRCRAFT. An aircraft that is operated
4 with a person in or on the aircraft.

5 (4) UNMANNED AIRCRAFT SYSTEM. An unmanned, powered
6 aircraft that does not carry a human operator, can be
7 autonomous or remotely piloted or operated, uses aerodynamic
8 forces to provide vehicle lift, and can be expendable or
9 recoverable. The term does not include a satellite orbiting
10 the Earth.

11 (5) WEAPON. An object, device, or instrument which
12 is designed to result in serious bodily injury or death or any
13 replica, article, or device having the appearance of such an
14 object, device, or instrument.

15 Section 4. (a) (1) Except as provided in subdivision
16 (2), any of the following constitute unlawful use of an
17 unmanned aircraft system:

18 a. The flight intentionally over a designated
19 facility by an unmanned aircraft system without the prior
20 written consent of the owner or operator of the designated
21 facility.

22 b. The use of an unmanned aircraft system to
23 intentionally conduct surveillance of, gather evidence or
24 collect information about, or photographically or
25 electronically record, a designated facility without the prior
26 written consent of the owner or operator of the designated
27 facility.

1 c. The intentional distribution, posting, or sharing
2 of any kind of information, including audio, video, or
3 photographic recordings, obtained through the unlawful use of
4 an unmanned aircraft system without the prior written consent
5 of the owner or operator of the designated facility.

6 d. The intentional harassment, as defined by Section
7 13A-11-8, Code of Alabama 1975, of a person, including a
8 person who is hunting or fishing in compliance with the laws
9 of this state.

10 e. The use of an unmanned aircraft system to aid or
11 assist in fishing or hunting.

12 (2) This section does not apply to either of the
13 following:

14 a. A third party retained by the owner of the
15 property or the operator of a designated facility using an
16 unmanned aircraft system to conduct activities prohibited in
17 subdivision (1) on behalf of the owner or operator.

18 b. Governmental agencies.

19 (3) The unlawful surveillance as described in this
20 act of an unmanned aircraft system also constitutes criminal
21 eavesdropping or criminal surveillance under Section 13A-11-31
22 or 13A-11-32, Code of Alabama 1975.

23 (b) (1) A person who commits the crime of unlawful
24 use of an unmanned aircraft system is guilty of a Class B
25 misdemeanor for the first offense.

26 (2) On a conviction for a second or subsequent
27 offense, the defendant is guilty of a Class A misdemeanor.

1 (3) It shall be an affirmative defense to a
2 prosecution under subsection (a) if the person did either of
3 the following:

4 a. Ensured the destruction or return of any and all
5 images, audio, video, data, copies, information, compilations,
6 reports, analyses, and any tangible and written expressions of
7 any and all information obtained through the use of the
8 unmanned aircraft system in the possession of the person and
9 any representatives.

10 b. Stopped disclosing, displaying, distributing, or
11 using the image as soon as the person knew the image was
12 captured in violation of subsection (a).

13 Section 5. (a) The owner or operator of a designated
14 facility aggrieved by the unlawful use of an unmanned aircraft
15 system, as provided in subsection (a) of Section 3, may
16 initiate a civil action against the offending party to obtain
17 all appropriate relief in order to prevent, restrain, or
18 compensate a violation of this section.

19 (b) In lieu of an award of actual damages, the owner
20 or operator of a designated facility whose photograph, image
21 or video of which was unlawfully taken may elect to recover
22 five thousand dollars (\$5,000) for each photograph, image, or
23 video that is published or otherwise disseminated, as well as
24 reasonable court costs, attorney's fees, or other injunctive
25 relief as determined by the court.

26 Section 6. (a) A person who willfully damages,
27 disrupts the operation of, or otherwise interferes with a

1 manned aircraft through the use of an unmanned aircraft
2 system, while the manned aircraft is taking off, landing, is
3 in flight, or is otherwise in motion, is guilty of a Class C
4 felony.

5 (b) (1) It shall be unlawful to engage in any of the
6 following:

7 a. The sale, transport, manufacture, possession, or
8 operation of an unmanned aircraft system that is equipped with
9 a weapon.

10 b. Flying an unmanned aircraft system on or over a
11 public street, road, or highway in this state, including any
12 easement or-right-of way connected with a street, road, or
13 highway in such a manner to knowingly and willfully interfere
14 with, or cause a hazard to, a motorist.

15 c. The use of an unmanned aircraft system in such a
16 manner to knowingly and willfully obstruct or hinder any law
17 enforcement officer, firefighter, or park ranger in the lawful
18 discharge of his or her official duties or to knowingly and
19 willfully obstruct an emergency medical technician, emergency
20 medical professional, or properly identified person working
21 under the direction of an emergency medical professional in
22 the lawful discharge of official duties.

23 d. The use of an unmanned aircraft to fly over a
24 prison facility.

25 e. The use of an unmanned aircraft to commit a crime
26 or to aid in the commission of a crime.

1 (2) A violation of this subsection is a Class A
2 misdemeanor.

3 Section 7. (a) A government agency may not use an
4 unmanned aircraft system to gather evidence or other
5 information, except under any of the following circumstances:

6 (1) If the agency first obtains a search warrant
7 signed by a judge authorizing the use of the unmanned aircraft
8 system.

9 (2) If the agency possesses reasonable suspicion
10 that, under particular circumstances, swift action is needed
11 to:

12 a. Prevent imminent danger to life.

13 b. Forestall the imminent escape of a suspect.

14 c. Counter a high risk of a terrorist attack by a
15 specific individual or organization if the United States
16 Secretary of Homeland Security or the Secretary of the Alabama
17 State Law Enforcement Agency determines that credible
18 intelligence indicates that there is such a risk.

19 d. Counter or control fire, hazardous materials, or
20 other natural or environmental disaster that threatens life or
21 property.

22 (3) The use is for the purpose of conducting
23 surveillance in an area that is within a law enforcement
24 officer's plain view when the officer is in a location where
25 he or she is legally authorized to be.

1 (4) The use is for the purpose of conducting
2 surveillance of events or gatherings to which the general
3 public is invited on public or private land.

4 (5) The use is for the provision of continuous
5 aerial coverage when law enforcement is searching for a
6 fugitive, escapee, or missing person, or is monitoring a
7 hostage situation.

8 (6) The use is for the performance of search and
9 rescue operations subsequent to a declared state of emergency
10 or natural disaster.

11 (7) The use is for the documentation of a crime
12 scene or accident scene.

13 (8) The use is for any purpose over government
14 property or over private property with prior written consent.

15 (b) A person aggrieved by a violation of subsection
16 (a) may initiate a civil action against the government agency
17 in violation of subsection (a) to obtain all appropriate
18 relief to prevent or remedy the violation.

19 (c) Evidence obtained or collected in violation of
20 this section is not admissible as evidence in a criminal
21 prosecution in any state court.

22 (d) Images collected in violation of this section
23 may not be retained by the government agency.

24 Section 8. This act may not be construed to do the
25 following:

1 (1) Prohibit possession or usage of an unmanned
2 aircraft system that is authorized by federal law or
3 regulation.

4 (2) Prohibit possession or usage of an unmanned
5 aircraft system by the Alabama National Guard, the United
6 States Armed Forces, or the United States Department of
7 Defense for national defense purposes.

8 (3) Prohibit or restrict the use of an unmanned
9 aircraft system, including to gather, collect, and record
10 imagery and other information, by the owner or operator of a
11 designated facility, or a person under contract with the owner
12 or operator, as long as the use is in furtherance of the owner
13 or operator's business operations, including, but not limited
14 to the following:

15 a. The siting, construction, installation,
16 operation, inspection, observance, testing, maintenance,
17 repair, security, replacement, removal, and demolition of its
18 facilities, structures, equipment, and other infrastructure.

19 b. Patrolling, inspecting, observing, surveying,
20 mapping, maintaining, and securing its property, easements,
21 and rights-of-way.

22 c. Storm damage assessment, restoration, and
23 recovery.

24 Section 9. The Alabama Department of Transportation
25 may adopt rules for the implementation and administration of
26 this act.

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

7 Section 11. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.