HB36
203652-1
By Representative Brown (C)
RFD: Transportation, Utilities and Infrastructure
First Read: 04-FEB-20
PFD: 01/23/2020
SYNOPSIS: Existing law provides for the commission of the crime of unauthorized entry of a critical infrastructure.

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

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

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

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

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

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal trespass; to amend Section 13A-7-4.3, Code of Alabama 1975, to further provide for the crime of unauthorized entry of a critical infrastructure; to further provide criminal penalties; and in connection
therewith would have as its purpose or effect the requirement
of a new or increased expenditure of local funds within the
meaning of Amendment 621 of the Constitution of Alabama of
1901, now appearing as Section 111.05 of the Official
Recompilation of the Constitution of Alabama of 1901, as
amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§13A-7-4.3.

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

"(1) CRITICAL INFRASTRUCTURE. The term includes, but
is not limited to, a chemical manufacturing facility, a
pipeline, a refinery, an electrical power generating facility
and the area surrounding the facility, an electrical
transmission or distribution tower, and substation, and
distribution substation or associated facility, an electric
utility control center, communication equipment, a switching
station, a water intake structure and water treatment
facility, a natural gas transmission compressor station, a
liquefied natural gas (LNG) terminal and storage facility, a
natural gas and hydrocarbon storage facility, and a
transportation facility, such as a port, railroad operating
facility, or trucking terminal, any facility designated as
critical infrastructure under 18 U.S.C. § 2339D, and any
industrial plant or facility of any of the foregoing."
"(2) FRAUDULENT DOCUMENTS FOR IDENTIFICATION

PURPOSES. A document which is presented as being a bona fide
document that provides personal identification information but
which, in fact, is false, forged, altered, or counterfeit.

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

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

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

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

"(1) Intentionally enters without authority into any
structure or onto any premises belonging to another that
constitutes in whole or in part a critical infrastructure that
is completely enclosed by any type of physical barrier or
clearly marked with a sign or signs that are posted in a
conspicuous manner and indicate that unauthorized entry is
forbidden.

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

"(3) Remains upon or on the premises of a critical
infrastructure 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.

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

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

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

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

3. The owner or operator of the critical infrastructure.

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

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

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

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

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

(d) If, during the commission of the crime of unauthorized entry of a critical infrastructure, the person injures, removes, destroys, breaks, or otherwise interrupts or
interferes with the operations of a critical infrastructure asset, the person is guilty of a Class C felony.

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

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

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