

1 SB45  
2 203652-1  
3 By Senator Ward  
4 RFD: Transportation and Energy  
5 First Read: 04-FEB-20  
6 PFD: 01/15/2020

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.