

Regular Session, 2014

SENATE BILL NO. 356

BY SENATOR WHITE

CRIME/PUNISHMENT. Prohibits "drones" from flying over chemical plants or water facilities. (gov sig)

AN ACT

To enact R.S. 2:18, relative to the regulation of aeronautics; to restrict the use of unmanned aircraft systems under certain circumstances; to provide definitions; to provide for criminal penalties and civil liability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 2:18 is hereby enacted to read as follows:

§18. Restrictions on use of unmanned aircraft systems; civil liability

A. As used in this Section, the following definitions shall apply:

(1) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable. "Unmanned aircraft system" does not include:

(a) A satellite orbiting the earth.

(b) 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 critical infrastructure.

(c) An unmanned aircraft system used by the state government or parish

1 office of homeland security and emergency preparedness after consultation with
2 the Governor's Office of Homeland Security and Emergency Preparedness or
3 a person who is acting pursuant to contract with the state government to
4 conduct surveillance of specific critical infrastructure.

5 (d) An unmanned aircraft system used pursuant to prior written
6 authorization of the department. The department shall provide standards for
7 such authorizations in rules adopted in accordance with the Administrative
8 Procedure Act, R.S. 49:950 et seq., after consultation with the Governor's Office
9 of Homeland Security and Emergency Preparedness.

10 (2) "Critical infrastructure" means systems, facilities, and assets vital to
11 national defense, national security, economic security, public health or safety,
12 including state, regional, and national infrastructure, and may be publicly or
13 privately owned, examples of which include but are not limited to:

14 (a) Gas and oil production, storage, or delivery systems.

15 (b) Facilities described in R.S. 32:1510(E).

16 (c) Water supply and treatment systems.

17 (d) Telecommunications networks.

18 (e) Electrical power generation or delivery systems.

19 (f) Financing and banking systems.

20 (g) Emergency services, including medical, police, fire, and rescue
21 services.

22 (h) Transportation systems and services, including highways, mass
23 transit, airlines, and airports.

24 (i) Facilities subject to the Transportation Worker Identification
25 Credential (TWIC) program under the Maritime Transportation Security Act
26 of 2002.

27 (3) "Federal government" means the United States of America and any
28 department, agency, or instrumentality thereof.

29 (4) "State government" means the state of Louisiana and any

1 department, agency, or instrumentality thereof.

2 B. No person shall use an unmanned aircraft system to intentionally
3 conduct surveillance of, gather evidence or collect information about, or
4 photographically or electronically record a specifically targeted critical
5 infrastructure without the prior written consent of the owner of the targeted
6 critical infrastructure.

7 C.(1) Nothing in this Section shall prohibit a person from using an
8 unmanned aircraft system to conduct surveillance of, gather evidence or collect
9 information about, or photographically or electronically record his own
10 property that is:

11 (a) Located on his own immovable property.

12 (b) Located on immovable property owned by another under a valid
13 lease, servitude, right-of-way, right of use, permit, license, or other right.

14 (2) Third persons retained by the owner of the property described in
15 Paragraph (1) of this Subsection to conduct any such nonprohibited activities
16 shall not be prohibited under this Section from using an unmanned aircraft
17 system to conduct such activities.

18 D.(1) Whoever violates Subsection B of this Section on a first offense
19 shall be fined not more than five hundred dollars, or imprisoned for not more
20 than six months, or both.

21 (2) Whoever violates Subsection B of this Section on a second or
22 subsequent offense shall be fined not more than two thousand dollars, or
23 imprisoned, with or without hard labor, for not more than one year, or both.

24 E. In addition to any criminal penalties provided for by this Section, any
25 person who uses an unmanned aircraft system in violation of this Section shall
26 be liable to the owner of the critical infrastructure that is the subject of the
27 prohibited conduct for each such violation as follows:

28 (1) Any actual damages sustained as a result of such use, or ten thousand
29 dollars, whichever is greater.

1 **(2) The costs of the action together with reasonable attorney fees as**
 2 **determined by the court, in the case of a successful action to enforce any civil**
 3 **liability under this Section.**

4 Section 2. This Act shall become effective upon signature by the governor or, if not
 5 signed by the governor, upon expiration of the time for bills to become law without signature
 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 8 effective on the day following such approval.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

DIGEST

White (SB 356)

Proposed law prohibits the use of unmanned aircraft to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record a specifically targeted critical infrastructure without the prior written consent of the owner.

Proposed law provides the following definitions:

- (1) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable, but does not include:
 - (a) A satellite orbiting the earth.
 - (b) 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 critical infrastructure.
 - (c) An unmanned aircraft system used by the state government or parish office of homeland security and emergency preparedness after consultation with the Governor's Office of Homeland Security and Emergency Preparedness, or a person who is acting pursuant to contract with the state government to conduct surveillance of specific critical infrastructure.
 - (d) An unmanned aircraft system used pursuant to prior written authorization of the Dept. of Transportation and Development (DOTD). Proposed law further provides that DOTD is to provide standards for such authorizations in rules adopted in accordance with present law (Administrative Procedure Act) after consultation with the Governor's Office of Homeland Security and Emergency Preparedness.
- (2) "Critical infrastructure" means systems, facilities, and assets vital to national defense, national security, economic security, public health or safety, including state, regional, and national infrastructure, and may be publicly or privately owned, examples of which include but are not limited to gas and oil production, storage, or delivery systems; certain facilities described in present law relative to hazardous

materials; water supply and treatment systems; telecommunications networks; electrical power generation or delivery systems; financing and banking systems; emergency services; transportation systems and services; and facilities subject to the Transportation Worker Identification Credential (TWIC) program under the Maritime Transportation Security Act of 2002.

- (3) "Federal government" means the United States of America and any department, agency, or instrumentality thereof.
- (4) "State government" means the state of Louisiana and any department, agency, or instrumentality thereof.

Proposed law does not prohibit a person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his own property that is located either on his own immovable property or on immovable property owned by another under a valid lease, servitude, right-of-way, right of use, permit, license, or other right. Proposed law further provides that third persons retained by the owner of the property described in proposed law are likewise not prohibited under proposed law from using an unmanned aircraft system to conduct such activities.

Proposed law provides that a person who violates proposed law on a first offense is to be fined up to \$500, or imprisoned up to six months, or both. Proposed law further provides that on a second or subsequent offense, a person who violates proposed law is to be fined up to \$2,000, imprisoned with or without hard labor for up to one year, or both.

Proposed law provides that in addition to any criminal penalties, a person who uses an unmanned aircraft system in violation of proposed law is liable to the owner of the critical infrastructure that is the subject of the prohibited conduct as follows:

- (1) Any actual damages sustained as a result of such use, or \$10,000, whichever is greater.
- (2) The costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any civil liability under proposed law.

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

(Adds R.S. 2:18)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

- 1. Adds criminal penalties to proposed law.
- 2. Adds exclusions for parish offices of homeland security to definition of "unmanned aircraft system".

Senate Floor Amendments to engrossed bill

- 1. Eliminates treble damages.
- 2. Legislative Bureau technical amendments.