

STATE OF NEW YORK

10305

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Smith) --
read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to unlawful operation of
model or unmanned aircraft over a critical infrastructure facility

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The penal law is amended by adding a new section 240.78 to
2 read as follows:

3 § 240.78 Unlawful operation of model or unmanned aircraft over a crit-
4 ical infrastructure facility.

5 1. It is unlawful for a person to (a) knowingly operate or use a model
6 or unmanned aircraft over a critical infrastructure facility at an alti-
7 tude not higher than four hundred feet above ground level; or (b) allow
8 a model or unmanned aircraft system to make contact with a critical
9 infrastructure facility, including any person or object on the premises
10 of or within the facility.

11 2. This section does not apply to:

12 (a) the federal government;

13 (b) a public body;

14 (c) a law enforcement agency;

15 (d) a person under contract with or otherwise acting under the direc-
16 tion or on behalf of the federal government, a public body or a law
17 enforcement agency;

18 (e) an owner or operator of the critical infrastructure facility or a
19 person who has the prior written consent of the owner or operator of the
20 critical infrastructure facility;

21 (f) the owner or occupant of the property on which the critical
22 infrastructure facility is located or a person who has the prior written
23 consent of the owner or occupant of the property on which the critical
24 infrastructure facility is located; or

25 (g) a person operating an unmanned aircraft system for commercial
26 purposes in compliance with authorization granted by the Federal
27 Aviation Administration.

28 3. For the purposes of this section:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (a) (i) "Unmanned aircraft" means an aircraft, including an aircraft
2 commonly known as a drone, that is operated without the possibility of
3 direct human intervention from within or on the aircraft; and

4 (ii) "Unmanned aircraft system" means an unmanned aircraft and asso-
5 ciated elements, including any communication links and components that
6 control the unmanned aircraft.

7 (b) "Commercial purposes" means the use of an unmanned aircraft in
8 return for financial compensation and includes aerial photography, aeri-
9 al mapping or geospatial imaging.

10 (c) "Critical infrastructure facility" means any of the following
11 facilities, if completely enclosed by a fence or other physical barrier
12 that is obviously designed to exclude intruders, or if marked with a
13 sign conspicuously posted on the property that indicates that entry is
14 forbidden:

15 (i) a petroleum or alumina refinery;

16 (ii) an electrical power generating facility, substation, switching
17 station or electrical control center;

18 (iii) a chemical, polymer or rubber manufacturing facility;

19 (iv) a water intake structure, water treatment facility, wastewater
20 treatment plant or pump station;

21 (v) a natural gas compressor station;

22 (vi) a liquid natural gas terminal or storage facility;

23 (vii) a telecommunications central switching office;

24 (viii) a port, railroad switching yard, trucking terminal or other
25 freight transportation facility;

26 (ix) a gas processing plant, including a plant used in the processing,
27 treatment or fractionation of natural gas;

28 (x) a transmission facility used by a federally licensed radio or
29 television station;

30 (xi) a steelmaking facility that uses an electric arc furnace to make
31 steel;

32 (xii) a dam that is classified as a high hazard by any regulatory
33 body;

34 (xiii) any portion of an aboveground oil, gas or chemical pipeline
35 that is enclosed by a fence or other physical barrier that is obviously
36 designed to exclude intruders; or

37 (xiv) a correctional facility or law enforcement facility.

38 (d) "Public unmanned aircraft" means an unmanned aircraft or unmanned
39 aircraft system that is operated by a public agency for a government-re-
40 lated purpose.

41 Unlawful operation of model or unmanned aircraft over a critical
42 infrastructure facility is a class E felony.

43 § 2. This act shall take effect immediately.