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 Assembly, do enact as follows:

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

§ 240.78 Unlawful operation of model or unmanned aircraft over a critical infrastructure facility.

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

2. This section does not apply to:

(a) the federal government;

(b) a public body;

(c) a law enforcement agency;

(d) a person under contract with or otherwise acting under the direction or on behalf of the federal government, a public body or a law enforcement agency;

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

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

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

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

(ii) "Unmanned aircraft system" means an unmanned aircraft and associated elements, including any communication links and components that control the unmanned aircraft.

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

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

(i) a petroleum or alumina refinery;

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

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

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

(v) a natural gas compressor station;

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

(vii) a telecommunications central switching office;

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

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

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

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

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

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

(xiv) a correctional facility or law enforcement facility.

(d) "Public unmanned aircraft" means an unmanned aircraft or unmanned aircraft system that is operated by a public agency for a government-related purpose.

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

§ 2. This act shall take effect immediately.