

STATE OF NEW YORK

8176--B

2023-2024 Regular Sessions

IN ASSEMBLY

October 27, 2023

Introduced by M. of A. FAHY, SEAWRIGHT, DICKENS, BURDICK, GLICK, AUBRY, LUNSFORD -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to prohibiting the operation of unmanned aircraft over school grounds or critical infrastructure

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

1 Section 1. Legislative findings and intent. The New York state legis-
2 lature finds and declares that protecting the safety and security of our
3 schools and our critical infrastructure facilities is of utmost impor-
4 tance. It is the intent of the legislature to respond to developments in
5 technology to ensure that new technologies do not pose unreasonable
6 risks to our school children or our critical infrastructure facilities.
7 Unmanned aircraft are often equipped with surveillance technology,
8 including photograph and video capabilities. Thus, the operation of
9 unmanned aircraft has the potential to infringe on the privacy of the
10 students, teachers, and staff on school grounds. Further, the operation
11 of unmanned aircraft can pose a risk to the safety and security of both
12 schools and critical infrastructure facilities. Aerial photographs or
13 videos of school grounds or critical infrastructure could equip nefari-
14 ous actors with information about the location of critical equipment,
15 entry and exit points, or the precise location of staff and, if applica-
16 ble, students at a given time of day. Given these substantial risks, the
17 legislature finds that an unmanned aircraft that remains above or hovers
18 above school grounds or critical infrastructure without permission can
19 be presumed to be performing surveillance and, as such, poses an unrea-
20 sonable security risk. It is not the intent of the legislature to

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

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1 restrict overflight by unmanned aircraft traversing the space above
2 school grounds or critical infrastructure.

3 § 2. The penal law is amended by adding a new section 270.45 to read
4 as follows:

5 § 270.45 Unlawfully operating an unmanned aircraft over school grounds
6 or critical infrastructure.

7 1. As used in this section:

8 (a) "Unmanned aircraft" means an aircraft operated without the possi-
9 bility of direct human intervention from within or on such aircraft.

10 (b) "School grounds" means in or on or within any building, structure,
11 athletic playing field, playground or land contained within the real
12 property boundary line of a public or private elementary, parochial,
13 intermediate, junior high, vocational or high school.

14 (c) "School administrator" shall have the same meaning as defined by
15 subdivision six of section one thousand one hundred twenty-five of the
16 education law.

17 (d) "Critical infrastructure" means any of the following, if complete-
18 ly enclosed by a fence or other physical barrier that is obviously
19 designed to exclude intruders, or if clearly marked with a sign or signs
20 which indicate that entry is forbidden and which are posted on the prop-
21 erty in a manner reasonably likely to come to the attention of intrud-
22 ers, and indicate that entry is forbidden:

23 (i) an electrical power generation or delivery system;

24 (ii) a petroleum or alumina refinery;

25 (iii) a chemical or rubber manufacturing facility;

26 (iv) an oil or gas pipeline;

27 (v) a petroleum or chemical storage facility; or

28 (vi) a drinking water intake structure, drinking water treatment
29 facility, wastewater treatment plant, pressure/flow regulating facility,
30 water storage tank, standpipe, water supply reservoir, pump station, or
31 wellfield.

32 2. A person is guilty of unlawfully operating an unmanned aircraft
33 over school grounds or critical infrastructure when such person inten-
34 tionally or knowingly:

35 (a) operates an unmanned aircraft over school grounds or critical
36 infrastructure and such unmanned aircraft remains above or hovers above
37 such school grounds or critical infrastructure, provided that such
38 unmanned aircraft is not higher than two hundred fifty feet above ground
39 level; or

40 (b) allows an unmanned aircraft to make contact with school grounds or
41 critical infrastructure, including any person or object on the premises
42 of such school grounds or critical infrastructure.

43 3. Nothing in this section shall apply to conduct described in subdi-
44 vision two of this section when such conduct is committed by:

45 (a) the federal government, the state, or a governmental agency;

46 (b) a person under contract with or otherwise acting under the direc-
47 tion or on behalf of the federal government, the state, or a govern-
48 mental entity;

49 (c) a person who has the prior written consent of:

50 (i) in the case of an unmanned aircraft being operated over school
51 grounds, the school administrator of such school grounds or such school
52 administrator's designee; or

53 (ii) in the case of an unmanned aircraft being operated over critical
54 infrastructure, the entity responsible for the operation of such crit-
55 ical infrastructure;

56 (d) a law enforcement agency;

1 (e) a person under contract with or otherwise acting under the direc-
2 tion or on behalf of a law enforcement agency; or

3 (f) a person who operates an unmanned aircraft that traverses over
4 school grounds or critical infrastructure when such unmanned aircraft
5 is:

6 (i) at least two hundred fifty feet above such school grounds or crit-
7 ical infrastructure; and

8 (ii) continuously flying through and is not hovering over such school
9 grounds or critical infrastructure.

10 Unlawfully operating an unmanned aircraft over school grounds or crit-
11 ical infrastructure is a class B misdemeanor for a first offense and a
12 class A misdemeanor for any subsequent offense.

13 § 3. This act shall take effect on the first of November next succeed-
14 ing the date on which it shall have become a law.