

# STATE OF NEW YORK

5575

2023-2024 Regular Sessions

## IN ASSEMBLY

March 16, 2023

Introduced by 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:

1 Section 1. The penal law is amended by adding a new section 240.80 to  
2 read as follows:

3 § 240.80 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

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

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

4 3. For the purposes of this section:

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

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

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

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

19 (i) a petroleum or alumina refinery;

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

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

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

25 (v) a natural gas compressor station;

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

27 (vii) a telecommunications central switching office;

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

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

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

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

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

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

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

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

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

47 § 2. This act shall take effect immediately.