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3 SENATE T&E COMMITTEE SUBSTITUTE FOR SB45
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8 SYNOPSIS: Existing law provides for the commission of
9 the crime of unauthorized entry of a critical
10 infrastructure.

11 This bill would further provide for the
12 crime of unauthorized entry of a critical
13 infrastructure by prohibiting the operation of an
14 unmanned aircraft system, or drone, to conduct
15 surveillance of, gather evidence or collect
16 information about, or photographically or
17 electronically record a critical infrastructure
18 except under certain conditions.

19 This bill would further define the term
20 critical infrastructure to include pipelines,
21 mining operations, and mining infrastructure.

22 This bill would provide enhanced criminal
23 penalties when a person damages a critical
24 infrastructure while committing the crime of
25 unauthorized entry of a critical infrastructure.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. However,
15 the bill does not require approval of a local
16 governmental entity or enactment by a 2/3 vote to
17 become effective because it comes within one of the
18 specified exceptions contained in the amendment.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 Relating to criminal trespass; to amend Section
25 13A-7-4.3, Code of Alabama 1975, to further provide for the
26 crime of unauthorized entry of a critical infrastructure; to
27 further provide criminal penalties; and in connection

1 therewith would have as its purpose or effect the requirement
2 of a new or increased expenditure of local funds within the
3 meaning of Amendment 621 of the Constitution of Alabama of
4 1901, now appearing as Section 111.05 of the Official
5 Recompilation of the Constitution of Alabama of 1901, as
6 amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 13A-7-4.3, Code of Alabama 1975,
9 is amended to read as follows:

10 "§13A-7-4.3.

11 "(a) For the purposes of this section, the following
12 words have the following meanings:

13 "(1) CRITICAL INFRASTRUCTURE. The term includes, but
14 is not limited to, a chemical manufacturing facility, a
15 pipeline, a refinery, an electrical power generating facility
16 and the area surrounding the facility, an electrical
17 transmission or distribution tower, ~~and~~ substation, ~~and~~
18 ~~distribution substation~~ or associated facility, an electric
19 utility control center, communication equipment, a switching
20 station, a water intake structure and water treatment
21 facility, a natural gas transmission compressor station, a
22 liquefied natural gas (LNG) terminal and storage facility, a
23 natural gas and hydrocarbon storage facility, mining
24 operations and mining infrastructure, and a transportation
25 facility, such as a port, railroad operating facility, ~~or~~
26 trucking terminal, any facility designated as critical

1 infrastructure under 18 U.S.C. § 2339D, and any industrial
2 plant or facility of any of the foregoing.

3 "(2) FRAUDULENT DOCUMENTS FOR IDENTIFICATION
4 PURPOSES. A document which is presented as being a bona fide
5 document that provides personal identification information but
6 which, in fact, is false, forged, altered, or counterfeit.

7 "(3) PERSON. An individual, trust, estate,
8 corporation, partnership, limited partnership, limited
9 liability partnership, limited liability company, or
10 unincorporated nonprofit association having a separate legal
11 existence under state law.

12 "(4) PIPELINE. Flow, transmission, distribution, or
13 gathering lines, regardless of size or length, that transmit
14 or transport oil, gas, petrochemicals, minerals, or water in a
15 solid, liquid, or gaseous state.

16 "(5) UNMANNED AIRCRAFT SYSTEM. A powered, aerial
17 vehicle that does not carry a human operator, uses aerodynamic
18 forces to provide vehicle lift, may fly autonomously through
19 an onboard computer or be piloted remotely, and may be
20 expendable or recoverable. The term does not include a
21 satellite orbiting the Earth or a spacecraft beyond Earth's
22 atmosphere, and may not be construed to implicate the provider
23 of a telecommunications link between an owner or operator of
24 an unmanned aircraft system and the unmanned aircraft system.

25 "(b) A person commits the crime of unauthorized
26 entry of a critical infrastructure if the person does any of
27 the following:

1 "(1) Intentionally enters without authority into any
2 structure or onto any premises belonging to another that
3 constitutes in whole or in part a critical infrastructure that
4 is completely enclosed by any type of physical barrier or
5 clearly marked with a sign or signs that are posted in a
6 conspicuous manner and indicate that unauthorized entry is
7 forbidden.

8 "(2) Uses or attempts to use a fraudulent document
9 for identification for the purpose of entering a critical
10 infrastructure.

11 "(3) Remains upon or on the premises of a critical
12 infrastructure after having been forbidden to do so, either
13 orally or in writing, by any owner, lessee, or custodian of
14 the property or by any other authorized person.

15 "(4) Intentionally enters into a restricted area of
16 a critical infrastructure which is marked as a restricted or
17 limited access area that is completely enclosed by any type of
18 physical barrier when the person is not authorized to enter
19 the restricted or limited access area.

20 "(5)a. Knowingly operates, or permits, authorizes,
21 or directs another person to operate, an unmanned aircraft
22 system over a critical infrastructure to conduct surveillance
23 of, gather evidence or collect information about, or
24 photographically or electronically record the critical
25 infrastructure without the permission of the owner or operator
26 of the critical infrastructure.

1 "b. This subdivision does not apply to an unmanned
2 aircraft system operated by any of the following:

3 "1. The federal government.

4 "2. The state or a political subdivision of the
5 state.

6 "3. The owner or operator of the critical
7 infrastructure.

8 "4. Any person who has a valid lease, servitude,
9 right-of-way, right of use, easement, license, or other right
10 granted by the owner or operator of the critical
11 infrastructure.

12 "5. A law enforcement agency, emergency medical
13 service agency, hazardous material response team, disaster
14 management agency, or other emergency management agency for
15 the purpose of incident command, area reconnaissance,
16 personnel and equipment deployment monitoring, training, or a
17 related purpose.

18 "6. An insurance company that is authorized to
19 operate by the owner or operator of the critical
20 infrastructure and is operating for the purpose of
21 underwriting an insurance risk or investigating damage to
22 insured property.

23 "7. Any person when in strict compliance with a
24 court order.

25 "(c) A person who commits the crime of unauthorized
26 entry of a critical infrastructure is guilty of a Class A
27 misdemeanor.

1 "(d) If, during the commission of the crime of
2 unauthorized entry of a critical infrastructure, the person
3 injures, removes, destroys, breaks, or otherwise interrupts or
4 interferes with the operations of a critical infrastructure
5 asset, the person is guilty of a Class C felony.

6 "~~(d)~~ (e) Nothing in this section shall be construed
7 to prevent lawful assembly and peaceful and orderly petition
8 for the redress of grievances, including, but not limited to,
9 any labor dispute between any employer and its employee."

10 Section 2. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621 because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

16 Section 3. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.