

Regular Session, 2014

SENATE BILL NO. 356

BY SENATOR WHITE

CRIME/PUNISHMENT. Prohibits "drones" from flying over chemical plants or water facilities. (gov sig)

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AN ACT

To enact R.S. 2:18, relative to the regulation of aeronautics; to restrict the use of unmanned aircraft systems under certain circumstances; to provide definitions; to provide for civil liability and penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 2:18 is hereby enacted to read as follows:

**§18. Restrictions on use of unmanned aircraft systems; civil liability**

**A. As used in this Section, the following definitions shall apply:**

**(1) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable. "Unmanned aircraft system" does not include:**

**(a) A satellite orbiting the earth.**

**(b) An unmanned aircraft system used by the federal government or a person who is acting pursuant to contract with the federal government to conduct surveillance of specific critical infrastructure.**

**(c) An unmanned aircraft system used by the state government or a**

1 person who is acting pursuant to contract with the state government to conduct  
2 surveillance of specific critical infrastructure.

3 (d) An unmanned aircraft system used pursuant to prior written  
4 authorization of the department. The department shall provide standards for  
5 such authorizations in rules adopted in accordance with the Administrative  
6 Procedure Act, R.S. 49:950 et seq., after consultation with the Governor's Office  
7 of Homeland Security and Emergency Preparedness.

8 (2) "Critical infrastructure" means systems, facilities, and assets vital to  
9 national defense, national security, economic security, public health or safety,  
10 including state, regional, and national infrastructure, and may be publicly or  
11 privately owned, examples of which include but are not limited to:

12 (a) Gas and oil production, storage, or delivery systems.

13 (b) Facilities described in R.S. 32:1510(E).

14 (c) Water supply and treatment systems.

15 (d) Telecommunications networks.

16 (e) Electrical power generation or delivery systems.

17 (f) Financing and banking systems.

18 (g) Emergency services, including medical, police, fire, and rescue  
19 services.

20 (h) Transportation systems and services, including highways, mass  
21 transit, airlines, and airports.

22 (i) Facilities subject to the Transportation Worker Identification  
23 Credential (TWIC) program under the Maritime Transportation Security Act  
24 of 2002.

25 (3) "Federal government" means the United States of America and any  
26 department, agency, or instrumentality thereof.

27 (4) "State government" means the state of Louisiana and any  
28 department, agency, or instrumentality thereof.

29 B. No person shall use an unmanned aircraft system to intentionally

1 conduct surveillance of, gather evidence or collect information about, or  
2 photographically or electronically record a specifically targeted critical  
3 infrastructure without the prior written consent of the owner of the targeted  
4 critical infrastructure.

5 C.(1) Nothing in this Section shall prohibit a person from using an  
6 unmanned aircraft system to conduct surveillance of, gather evidence or collect  
7 information about, or photographically or electronically record his own  
8 property that is:

9 (a) Located on his own immovable property.

10 (b) Located on immovable property owned by another under a valid  
11 lease, servitude, right of way, right of use, permit, license, or other right.

12 (2) Third persons retained by the owner of the property described in  
13 Paragraph (1) of this Subsection to conduct any such nonprohibited activities  
14 are not prohibited under this Section from using an unmanned aircraft system  
15 to conduct such activities.

16 D. Any person who uses an unmanned aircraft system in violation of this  
17 Section shall be liable to the owner of the critical infrastructure that is the  
18 subject of the prohibited conduct for each such violation as follows:

19 (1) Any actual damages sustained as a result of such use, or ten thousand  
20 dollars, whichever is greater.

21 (2) Treble damages, in any case where such violation resulted in profit  
22 or monetary gain.

23 (3) The costs of the action together with reasonable attorney fees as  
24 determined by the court, in the case of a successful action to enforce any civil  
25 liability under this Section.

26 Section 2. This Act shall become effective upon signature by the governor or, if not  
27 signed by the governor, upon expiration of the time for bills to become law without signature  
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
29 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

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#### DIGEST

White (SB 356)

Proposed law prohibits the use of unmanned aircraft to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record a specifically targeted critical infrastructure without the prior written consent of the owner.

Proposed law provides the following definitions:

- (1) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable, but does not include:
  - (a) A satellite orbiting the earth.
  - (b) An unmanned aircraft system used by the federal government or a person who is acting pursuant to contract with the federal government to conduct surveillance of specific critical infrastructure.
  - (c) An unmanned aircraft system used by the state government or a person who is acting pursuant to contract with the state government to conduct surveillance of specific critical infrastructure.
  - (d) An unmanned aircraft system used pursuant to prior written authorization of the Dept. of Transportation and Development (DOTD). Proposed law further provides that DOTD is to provide standards for such authorizations in rules adopted in accordance with present law (Administrative Procedure Act) after consultation with the Governor's Office of Homeland Security and Emergency Preparedness.
- (2) "Critical infrastructure" means systems, facilities, and assets vital to national defense, national security, economic security, public health or safety, including state, regional, and national infrastructure, and may be publicly or privately owned, examples of which include but are not limited to gas and oil production, storage, or delivery systems; certain facilities described in present law relative to hazardous materials; water supply and treatment systems; telecommunications networks; electrical power generation or delivery systems; financing and banking systems; emergency services; transportation systems and services; and facilities subject to the Transportation Worker Identification Credential (TWIC) program under the Maritime Transportation Security Act of 2002.
- (3) "Federal government" means the United States of America and any department, agency, or instrumentality thereof.
- (4) "State government" means the state of Louisiana and any department, agency, or instrumentality thereof.

Proposed law does not prohibit a person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his own property that is located either on his own immovable property or on immovable property owned by another under a valid lease, servitude, right of way, right of use, permit, license, or other right. Proposed law further provides that third persons

retained by the owner of the property described in proposed law are likewise not prohibited under proposed law from using an unmanned aircraft system to conduct such activities.

Proposed law provides that any person who uses an unmanned aircraft system in violation of proposed law are liable to the owner of the critical infrastructure that is the subject of the prohibited conduct as follows:

- (1) Any actual damages sustained as a result of such use, or \$10,000, whichever is greater.
- (2) Treble damages, in any case where such violation resulted in profit or monetary gain.
- (3) The costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any civil liability under proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 2:18)