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3 HOUSE TRANSPORTATION, UTILITIES, AND INFRASTRUCTURE COMMITTEE
4 SUBSTITUTE FOR HB36

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9 SYNOPSIS: Existing law provides for the commission of
10 the crime of unauthorized entry of a critical
11 infrastructure.

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

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

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

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

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

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to criminal trespass; to amend Section
27 13A-7-4.3, Code of Alabama 1975, to further provide for the

1 crime of unauthorized entry of a critical infrastructure; to
2 further provide criminal penalties; and in connection
3 therewith would have as its purpose or effect the requirement
4 of a new or increased expenditure of local funds within the
5 meaning of Amendment 621 of the Constitution of Alabama of
6 1901, now appearing as Section 111.05 of the Official
7 Recompilation of the Constitution of Alabama of 1901, as
8 amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§13A-7-4.3.

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

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

1 trucking terminal, any facility designated as critical
2 infrastructure under 18 U.S.C. § 2339D, and any industrial
3 plant or facility of any of the foregoing.

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

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

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

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

1 "(b) A person commits the crime of unauthorized
2 entry of a critical infrastructure if the person does any of
3 the following:

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

11 "(2) Uses or attempts to use a fraudulent document
12 for identification for the purpose of entering a critical
13 infrastructure.

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

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

23 "(5)a. Knowingly operates, or permits, authorizes,
24 or directs another person to operate, an unmanned aircraft
25 system over a critical infrastructure to conduct surveillance
26 of, gather evidence or collect information about, or
27 photographically or electronically record the critical

1 infrastructure without the permission of the owner or operator
2 of the critical infrastructure.

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

5 "1. The federal government.

6 "2. The state or a political subdivision of the
7 state.

8 "3. The owner or operator of the critical
9 infrastructure.

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

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

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

25 "7. Any person when in strict compliance with a
26 court order.

1 "(c) A person who commits the crime of unauthorized
2 entry of a critical infrastructure is guilty of a Class A
3 misdemeanor.

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

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

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

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