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HOUSE BILL NO. 1726

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 31, 2025)

(Patron Prior to Substitute—Delegate Price)

A BILL to amend and reenact § 18.2-121.3 of the Code of Virginia, relating to trespass with an unmanned aircraft system; contracted defense facility; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-121.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-121.3. Trespass with an unmanned aircraft system; penalty.

A. Any person who knowingly and intentionally causes an unmanned aircraft system to (i) enter the property of another and come within 50 feet of a dwelling house (a) to coerce, intimidate, or harass another person or (b) after having been given actual notice to desist, for any other reason; (ii) take off or land in violation of current Federal Aviation Administration Special Security Instructions or UAS Security Sensitive Airspace Restrictions; or (iii) (a) drop any item within the boundaries of or (b) obtain any videographic or still image of any identifiable inmate or resident at any state or local correctional facility, as defined in § 53.1-1, or juvenile correctional center is guilty of a Class 1 misdemeanor.

B. ~~This section~~ Subsection A shall not apply to any person who causes an unmanned aircraft system to enter the property as set forth in subsection A if (i) consent is given to the entry by any person with legal authority to consent or by any person who is lawfully present on such property or (ii) such person is authorized by federal regulations to operate an unmanned aircraft system and is operating such system in an otherwise lawful manner and consistent with federal regulations.

C. Notwithstanding the provisions of subsections A and B, any person who knowingly, intentionally, and without authorization causes an unmanned aircraft system to enter the property of and obtains or attempts to obtain any videographic or still image that contains or reveals any controlled technical information located within a contracted defense facility is guilty of a Class 4 felony. Notwithstanding the provisions of § 18.2-146, the owner or operator of a contracted defense facility and its employees shall be immune from criminal prosecution and civil liability as a result of preventing, stopping, deterring, interrupting, or repelling, or attempting to prevent, stop, deter, interrupt or repel, an unmanned aircraft system from entering the property of such contracted defense facility, or attempting to stop, deter, interrupt, or repel, an unmanned aircraft system that has entered such property, provided that such action does not result in injury to any person.

As used in this subsection:

"Contracted defense facility" means any manufacturing or engineering facility or other related facility where work involving the design, construction, repair, maintenance, modernization, or inactivation of an asset of the U.S. Department of Defense occurs pursuant to a contract issued by the federal government.

"Controlled technical information" means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination, excluding information that is lawfully publicly available without restrictions, as defined in clause 252.204-7012 of the Defense Federal Acquisition Regulation Supplement, as amended.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the Virginia State Crime Commission shall (i) analyze existing law to identify statutes to amend to provide additional protection from trespass with an unmanned aircraft system to critical infrastructure, as defined in 42 U.S.C. § 5195c, or public services or utilities, as described in § 18.2-162 of the Code of Virginia, and (ii) recommend amendments to existing law or new legislation it deems necessary to provide such protection to such infrastructure or public services or utilities. The Virginia State Crime Commission shall submit such recommendations to the General Assembly by November 1, 2025.

HOUSE SUBSTITUTE

HB1726H1