

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2043

BY Delegate Burkhammer

[Originating in the Subcommittee on Agriculture,

Commerce, and Tourism:

Reported on February 20, 2025]

1 A BILL to amend and reenact §20-2-5j and §61-10-34 of the Code of West Virginia, 1931, as
2 amended, to authorize the use of Unmanned aerial vehicles and dogs while hunting and
3 describe their administration; and to add to the definition of “critical infrastructure” certain
4 licensed or commercial livestock and poultry facilities to protect them from unauthorized
5 Unmanned aerial vehicle surveillance or attack; all generally relating to the regulated use
6 of Unmanned aerial vehicles in West Virginia airspace.

Be it enacted by the Legislature of West Virginia:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

Part I. Wildlife Management.

**§20-2-5j. Leashed dogs and/or Unmanned aerial vehicles for tracking or locating mortally
wounded deer, elk, turkey, wild boar, or bear.**

1 (a) Notwithstanding any provision of this chapter to the contrary, a person who is legally
2 hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or
3 bear may use a leashed dogs dog and/or an Unmanned aerial vehicle as defined in West Virginia
4 Code §61-16-1(3) (hereafter “UAV”), to track and locate the mortally wounded deer, elk, turkey,
5 wild boar, or bear. The hunter is also permitted to use a dog handler of a leashed dogs dog and/or
6 a licensed UAV operator to track and locate the mortally wounded deer, elk, turkey, wild boar, or
7 bear. The hunter or the dog handler shall always maintain physical control of the leashed dogs
8 dog. Only one leashed dog per handler may be used and, if the hunter is using a dog handler, the
9 hunter may not handle additional dogs for the handler.

10 (b) The act of tracking a mortally wounded deer, elk, turkey, wild boar, or bear with a dog, or
11 locating with a UAV, is hunting and the hunter, and handler, or licensed UAV operator are subject to
12 all applicable laws and rules. It is unlawful for a hunter, licensed UAV operator, or dog handler to

13 track or locate deer, elk, turkey, wild boar, or bear with leashed dogs or a UAV under the provisions
14 of this section unless he or she is in possession of a valid hunting license issued pursuant to this
15 article or is a person excepted from licensing requirements pursuant to this article, and all other
16 lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and
17 only the hunter may kill a mortally wounded deer, elk, turkey, wild boar, or bear. However, any
18 hunter who is physically unable to accompany the handler in the tracking and locating of the
19 mortally wounded deer, elk, wild turkey, boar, or bear may designate the handler to kill the deer,
20 elk, wild turkey, boar, or bear when located by the handler. The deer, elk, turkey, wild boar, or bear
21 shall count toward the bag limit of the hunter who fired the initial shot.

22 (c) Any dog handler or any UAV operator providing tracking services for profit must be
23 licensed as an outfitter or guide pursuant to §20-2-23 of this code. Any UAV operator not operating
24 on property they own or lease must be licensed according to FAA Part 107. The Director shall
25 provide a list of licensed dog handlers and UAV operators to the public prior to September 1st of
26 each year.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; criminal penalties; and civil action.

(a) This section may be referred to as the "West Virginia Critical Infrastructure Protection Act".

(b) For purposes of this section:

"Critical Infrastructure" means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

"Critical infrastructure facility" means one of the following:

- (1) A petroleum or alumina refinery;
- (2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines, and associated equipment infrastructure;
- (3) A chemical, polymer, or rubber manufacturing facility;
- (4) A water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (5) A natural gas compressor station;
- (6) A liquid natural gas terminal or storage facility;
- (7) Wireline and wireless telecommunications infrastructure;
- (8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;
- (9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (10) A transmission facility used by a federally licensed radio or television station;
- (11) A steelmaking facility that uses an electric arc furnace to make steel;
- (12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;
- (13) A dam that is regulated by the state or federal government;
- (14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below- or above-ground

pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility;

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited;

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited;

(18) Health care facilities;

(19) Any above-ground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier, or is clearly marked with signs prohibiting trespassing that are obviously designed to exclude intruders;

(20) A commercial service airport as defined by the Federal Aviation Administration;

(21) Any nuclear reactor and its associated components including, but not limited to, components related to modular or microreactors, cooling technologies, sensors, instrumentation, or storage involved in training or research opportunities;

(22) Any licensed livestock stockyard facility; any licensed livestock slaughter facility; or any commercial poultry production and processing facility; or

(2223) The hardware, software, or other digital property of any critical infrastructure facility listed in this subsection.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$250 nor more than \$1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy,

vandalize, deface, tamper with the physical or digital equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in a jail for not more than one year, or both fined and confined.

(2) (A) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with the physical or digital equipment in a critical infrastructure facility causing damage, including damage inflicted by cyber-attack or digital interference in excess of \$2,500 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$3,000 nor more than \$10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(B) Any person convicted of a second offense under the provisions of this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$15,000, or imprisoned in a state correctional facility for a term of not less than two years nor more than 10 years, or both fined and imprisoned.

(3) Any person who conspires with any person to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$250 nor more than \$1,000. Any person who conspires with any person to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalization, defacing, or tampering causes damage, including damage inflicted by cyber-attack or digital interference in excess of \$2,500 is guilty of a felony and, shall, upon conviction thereof, be fined not less than \$3,000 nor more than \$10,000.

(d)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(e) A person who buys or receives from another person, aids in concealing, transfers to a person other than the owner thereof, or possesses any stolen goods or other thing of value from a critical infrastructure facility, which he or she knows or has reason to believe has been stolen from a critical infrastructure facility, is guilty of larceny, and may be prosecuted although the principal offender has not been convicted: *Provided*, That possession of stolen goods from a critical infrastructure facility while acting at the request of law enforcement or in cooperation with law enforcement does not constitute a violation of this section. Any person convicted of an offense under this subsection, in addition the criminal penalties imposed for larceny, is liable to the critical infrastructure facility owner for compensatory damages and, in addition, for punitive damages in an amount not less than three times the amount of the compensatory damages.

(f) The provisions of §61-10-34(c)(1) of this code do not apply to any person or organization:

(1) Monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

(2) Picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements; or

(3) Engaging in union organizing or recruitment activities, including attempting to reach workers verbally, in writing with pamphlets, and investigation of non-union working conditions, or both.

(g) The provisions of this section do not apply to:

(1) The right to free speech or assembly including, but not limited to, protesting and picketing; or

(2) A contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility.

(h)(1) All items of personal property which are used, have been used, or are intended for use in perpetration of theft or damage to infrastructure are subject to forfeiture.

(2) The items of personal property subject to forfeiture include all conveyances, including aircraft, vehicles, or vessels, except that:

(A) A conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the person owning the conveyance is a consenting party or privy to a violation of this section;

(B) A conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the person owning the conveyance knew, or had reason to know, that the conveyance was being employed or was likely to be employed in a violation of this section; and

(C) A bona fide security interest or other valid lien in any conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the holder of the security interest or lien either knew, or had reason to know, that the conveyance was being used or was likely to be used in a violation of this section.

(3) All procedures relating to the seizure and disposition of property subject to forfeiture under the authority of this section are governed by the applicable provisions of the West Virginia Contraband Forfeiture Act, §60A-7-701 *et seq.* of this code.

dogs while hunting and describe their administration; and to add to the definition of “critical infrastructure” certain licensed or commercial livestock and poultry facilities to protect them from unauthorized Unmanned aerial vehicle surveillance or attack; all generally related to the regulated use of Unmanned aerial vehicles in West Virginia airspace.

This section is new; therefore, strike-throughs and underscoring have been omitted.