

## **BILL ANALYSIS**

Senate Research Center  
79R9091 KCR-D

C.S.S.B. 431  
By: Staples  
Transportation & Homeland Security  
3/10/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

At this time, there are no specific provisions in the Penal Code addressing criminal trespass on or in a critical infrastructure facility. Critical infrastructure facilities include chemical manufacturing facilities, refineries, electrical power generating facilities, water intake structures, water treatment facilities, ports, railroad switching yards, trucking terminals, and other transportation facilities. Criminal trespass is currently a Class B misdemeanor.

C.S.S.B. 431 defines trespass on or in a critical infrastructure facility and increases the penalty for trespass on or in such a facility to a Class A misdemeanor, which is the same level as trespass in a habitation, shelter, or superfund site. This bill also provides for an affirmative defense to the increase in punishment if the defendant can show that the defendant was on the site as part of a lawful assembly or peaceful protest.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 30.05(b), Penal Code, by adding Subdivision (7) to define "critical infrastructure facility."

SECTION 2. Amends Section 30.05, Penal Code, by amending Subsection (d) and by adding Subsection (g), as follows:

(d) Provides that an offense under Subsection (a) (Criminal Trespass) is a Class B misdemeanor, except that it is a Class A misdemeanor if the offense is committed on or in a critical infrastructure facility.

(g) Authorizes the defendant, at the punishment stage of a trial in which the attorney representing the state seeks increased punishment for criminal trespass because it was on or in a critical infrastructure facility, to raise the issue as to whether the defendant entered or remained on or in a critical infrastructure facility as part of a lawful assembly or peaceful and orderly petition for the redress of grievances. Provides that if the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment does not apply.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.