

1-1 By: Staples S.B. No. 431
1-2 (In the Senate - Filed February 9, 2005; February 15, 2005,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; March 14, 2005, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays
1-6 0; March 14, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 431 By: Staples

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the prosecution of the offense of criminal trespass on
1-11 certain property.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Section 30.05, Penal Code, is
1-14 amended by adding Subdivision (7) to read as follows:

1-15 (7) "Critical infrastructure facility" means one of
1-16 the following, if completely enclosed by a fence or other physical
1-17 barrier that is obviously designed to exclude intruders:

1-18 (A) a chemical manufacturing facility;

1-19 (B) a refinery;

1-20 (C) an electrical power generating facility,
1-21 substation, or switching station;

1-22 (D) a water intake structure or water treatment
1-23 facility;

1-24 (E) a natural gas transmission compressor
1-25 station;

1-26 (F) a liquid natural gas terminal or storage
1-27 facility;

1-28 (G) a telecommunications central switching
1-29 office; or

1-30 (H) a port, railroad switching yard, trucking
1-31 terminal, or other freight transportation facility.

1-32 SECTION 2. Section 30.05, Penal Code, is amended by
1-33 amending Subsection (d) and by adding Subsection (g) to read as
1-34 follows:

1-35 (d) An offense under Subsection (e) is a Class C misdemeanor
1-36 unless it is committed in a habitation or unless the actor carries a
1-37 deadly weapon on or about the actor's person during the commission
1-38 of the offense, in which event it is a Class A misdemeanor. An
1-39 offense under Subsection (a) is a Class B misdemeanor, except that
1-40 the offense is a Class A misdemeanor if:

1-41 (1) the offense is committed:

1-42 (A) in a habitation or a shelter center; [~~or~~]

1-43 (B) on a Superfund site; or

1-44 (C) on or in a critical infrastructure facility;

1-45 or

1-46 (2) the actor carries a deadly weapon on or about his
1-47 person during the commission of the offense.

1-48 (g) At the punishment stage of a trial in which the attorney
1-49 representing the state seeks the increase in punishment provided by
1-50 Subsection (d)(1)(C), the defendant may raise the issue as to
1-51 whether the defendant entered or remained on or in a critical
1-52 infrastructure facility as part of a lawful assembly or peaceful
1-53 and orderly petition for the redress of grievances, including an
1-54 assembly or petition addressing a labor dispute between an employer
1-55 and employee. If the defendant proves the issue in the affirmative
1-56 by a preponderance of the evidence, the increase in punishment
1-57 provided by Subsection (d)(1)(C) does not apply.

1-58 SECTION 3. The change in law made by this Act applies only
1-59 to an offense committed on or after September 1, 2005. An offense
1-60 committed before September 1, 2005, is covered by the law in effect
1-61 when the offense was committed, and the former law is continued in
1-62 effect for that purpose. For purposes of this section, an offense
1-63 was committed before September 1, 2005, if any element of the

2-1 offense was committed before that date.

2-2 SECTION 4. This Act takes effect September 1, 2005.

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