

1-1 By: Seliger S.B. No. 1662  
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 14, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 14, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1662 By: Seliger

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

1-10 relating to the punishment for the offense of breach of computer  
1-11 security.

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

1-13 SECTION 1. Section 33.01, Penal Code, is amended by adding  
1-14 Subdivision (10-a) to read as follows:

1-15 (10-a) "Critical infrastructure facility" means:

1-16 (A) a chemical manufacturing facility;

1-17 (B) a refinery;

1-18 (C) an electrical power generating facility,  
1-19 substation, switching station, electrical control center, or  
1-20 electrical transmission or distribution facility;

1-21 (D) a water intake structure, water treatment  
1-22 facility, wastewater treatment plant, or pump station;

1-23 (E) a natural gas transmission compressor  
1-24 station;

1-25 (F) a liquid natural gas terminal or storage  
1-26 facility;

1-27 (G) a telecommunications central switching  
1-28 office;

1-29 (H) a port, railroad switching yard, trucking  
1-30 terminal, or other freight transportation facility;

1-31 (I) a gas processing plant, including a plant  
1-32 used in the processing, treatment, or fractionation of natural gas;  
1-33 or

1-34 (J) a transmission facility used by a federally  
1-35 licensed radio or television station.

1-36 SECTION 2. Section 33.02, Penal Code, is amended by  
1-37 amending Subsections (b) and (d) and adding Subsections (b-1) and  
1-38 (b-2) to read as follows:

1-39 (b) An offense under Subsection (a) [this section] is a  
1-40 Class B misdemeanor, except that the offense is a state jail felony  
1-41 if:

1-42 (1) the defendant has been previously convicted two or  
1-43 more times of an offense under this chapter; or

1-44 (2) the computer, computer network, or computer system  
1-45 is owned by the government or a critical infrastructure facility.

1-46 (b-1) A person commits an offense if with the intent to  
1-47 obtain [unless in committing the offense the actor knowingly  
1-48 obtains] a benefit, defraud [defrauds] or harm [harms] another, or  
1-49 alter [alters], damage [damages], or delete [deletes] property, the  
1-50 person knowingly accesses a computer, computer network, or computer  
1-51 system without the effective consent of the owner.

1-52 (b-2) An offense under Subsection (b-1) [in which event the  
1-53 offense] is:

1-54 (1) [a Class A misdemeanor if the aggregate amount  
1-55 involved is less than \$1,500,

1-56 [+2+] a state jail felony if:

1-57 [+A+] the aggregate amount involved is [~~\$1,500 or~~  
1-58 more but] less than \$20,000 [~~, or~~

1-59 [+B+] the aggregate amount involved is less than  
1-60 \$1,500 and the defendant has been previously convicted two or more  
1-61 times of an offense under this chapter];

1-62 (2) [+3+] a felony of the third degree if the  
1-63 aggregate amount involved is \$20,000 or more but less than

2-1 \$100,000;

2-2 (3) [~~(4)~~] a felony of the second degree if:

2-3 (A) the aggregate amount involved is \$100,000 or

2-4 more but less than \$200,000; or

2-5 (B) the aggregate amount involved is less than

2-6 \$200,000 and the offense is committed against a computer, computer

2-7 network, or computer system owned by the government or a critical

2-8 infrastructure facility; or

2-9 (4) [~~(5)~~] a felony of the first degree if the

2-10 aggregate amount involved is \$200,000 or more.

2-11 (d) A person who is [~~his~~] subject to prosecution under this

2-12 section and any other section of this code may be prosecuted under

2-13 either or both sections.

2-14 SECTION 3. The change in law made by this Act applies only

2-15 to an offense committed on or after the effective date of this Act.

2-16 An offense committed before the effective date of this Act is

2-17 covered by the law in effect when the offense was committed, and the

2-18 former law is continued in effect for that purpose. For purposes of

2-19 this section, an offense was committed before the effective date of

2-20 this Act if any element of the offense occurred before that date.

2-21 SECTION 4. This Act takes effect September 1, 2009.

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