

AN ACT

relating to the prosecution of and punishment for the offense of breach of computer security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

(A) a chemical manufacturing facility;

(B) a refinery;

(C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;

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

(E) a natural gas transmission compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a telecommunications central switching office;

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

(I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

1           (J) a transmission facility used by a federally  
2 licensed radio or television station; or

3           (K) a cable television or video service provider  
4 headend.

5           (14-a) "Identifying information" has the meaning  
6 assigned by Section 32.51.

7           SECTION 2. Section 33.02, Penal Code, is amended by  
8 amending Subsections (b) and (d) and adding Subsections (b-1),  
9 (b-2), and (e) to read as follows:

10           (b) An offense under Subsection (a) [~~this section~~] is a  
11 Class B misdemeanor, except that the offense is a state jail felony  
12 if:

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

15           (2) the computer, computer network, or computer system  
16 is owned by the government or a critical infrastructure facility.

17           (b-1) A person commits an offense if with the intent to  
18 defraud [~~unless in committing the offense the actor knowingly~~  
19 ~~obtains a benefit, defrauds~~] or harm [~~harms~~] another[~~7~~] or alter  
20 [~~alters~~], damage [~~damages~~], or delete [~~deletes~~] property, the  
21 person knowingly accesses a computer, computer network, or computer  
22 system without the effective consent of the owner.

23           (b-2) An offense under Subsection (b-1) [~~in which event the~~  
24 ~~offense~~] is:

25           (1) [~~a Class A misdemeanor if the aggregate amount~~  
26 ~~involved is less than \$1,500,~~

27           [~~2~~] a state jail felony if [~~+~~

1                    [~~(A)~~] the aggregate amount involved is [~~\$1,500 or~~  
2 ~~more but~~] less than \$20,000 [~~, or~~

3                    [~~(B) the aggregate amount involved is less than~~  
4 ~~\$1,500 and the defendant has been previously convicted two or more~~  
5 ~~times of an offense under this chapter]~~;

6                    (2) [~~(3)~~] a felony of the third degree if the  
7 aggregate amount involved is \$20,000 or more but less than  
8 \$100,000;

9                    (3) [~~(4)~~] a felony of the second degree if:

10                    (A) the aggregate amount involved is \$100,000 or  
11 more but less than \$200,000;

12                    (B) the aggregate amount involved is any amount  
13 less than \$200,000 and the computer, computer network, or computer  
14 system is owned by the government or a critical infrastructure  
15 facility; or

16                    (C) the actor obtains the identifying  
17 information of another by accessing only one computer, computer  
18 network, or computer system; or

19                    (4) [~~(5)~~] a felony of the first degree if:

20                    (A) the aggregate amount involved is \$200,000 or  
21 more; or

22                    (B) the actor obtains the identifying  
23 information of another by accessing more than one computer,  
24 computer network, or computer system.

25                    (d) A person who is [~~his~~] subject to prosecution under this  
26 section and any other section of this code may be prosecuted under  
27 either or both sections.

1       (e) It is a defense to prosecution under this section that  
2 the person acted with the intent to facilitate a lawful seizure or  
3 search of, or lawful access to, a computer, computer network, or  
4 computer system for a legitimate law enforcement purpose.

5       SECTION 3. The change in law made by this Act applies only  
6 to an offense committed on or after the effective date of this Act.  
7 An offense committed before the effective date of this Act is  
8 covered by the law in effect when the offense was committed, and the  
9 former law is continued in effect for that purpose. For purposes of  
10 this section, an offense was committed before the effective date of  
11 this Act if any element of the offense occurred before that date.

12       SECTION 4. This Act takes effect September 1, 2011.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3396 was passed by the House on May 5, 2011, by the following vote: Yeas 146, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3396 on May 26, 2011, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3396 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor