

By: Hernandez Luna

H.B. No. 3396

Substitute the following for H.B. No. 3396:

By: Gallego

C.S.H.B. No. 3396

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of and punishment for the offense of
3 breach of computer security.

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

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

7 (10-a) "Critical infrastructure facility" means:

8 (A) a chemical manufacturing facility;

9 (B) a refinery;

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

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

15 (E) a natural gas transmission compressor
16 station;

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

19 (G) a telecommunications central switching
20 office;

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

23 (I) a gas processing plant, including a plant
24 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 obtain [~~unless in committing the offense the actor knowingly~~
19 ~~obtains~~] a benefit, defraud [~~defrauds~~] or harm [~~harms~~] another, or
20 alter [~~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 ~~[(3)]~~ a felony of the third degree if the aggregate
7 amount involved is [~~\$20,000 or more but~~] less than \$100,000;

8 (2) ~~[(4)]~~ a felony of the second degree if:

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

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

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

18 (3) ~~[(5)]~~ a felony of the first degree if:

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

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

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

27 (e) It is a defense to prosecution under this section that

1 the person acted with the intent to facilitate a lawful seizure or
2 search of, or lawful access to, a computer, computer network, or
3 computer system for a legitimate law enforcement purpose.

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

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