

1-1 By: Hernandez Luna (Senate Sponsor - Patrick) H.B. No. 3396  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on Criminal  
1-4 Justice; May 21, 2011, reported favorably by the following vote:  
1-5 Yeas 6, Nays 0; May 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the prosecution of and punishment for the offense of  
1-9 breach of computer security.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 33.01, Penal Code, is amended by adding  
1-12 Subdivisions (10-a) and (14-a) to read as follows:

1-13 (10-a) "Critical infrastructure facility" means:

1-14 (A) a chemical manufacturing facility;

1-15 (B) a refinery;

1-16 (C) an electrical power generating facility,  
1-17 substation, switching station, electrical control center, or  
1-18 electrical transmission or distribution facility;

1-19 (D) a water intake structure, water treatment  
1-20 facility, wastewater treatment plant, or pump station;

1-21 (E) a natural gas transmission compressor  
1-22 station;

1-23 (F) a liquid natural gas terminal or storage  
1-24 facility;

1-25 (G) a telecommunications central switching  
1-26 office;

1-27 (H) a port, railroad switching yard, trucking  
1-28 terminal, or other freight transportation facility;

1-29 (I) a gas processing plant, including a plant  
1-30 used in the processing, treatment, or fractionation of natural gas;

1-31 (J) a transmission facility used by a federally  
1-32 licensed radio or television station; or

1-33 (K) a cable television or video service provider  
1-34 headend.

1-35 (14-a) "Identifying information" has the meaning  
1-36 assigned by Section 32.51.

1-37 SECTION 2. Section 33.02, Penal Code, is amended by  
1-38 amending Subsections (b) and (d) and adding Subsections (b-1),  
1-39 (b-2), and (e) to read as follows:

1-40 (b) An offense under Subsection (a) [this section] is a  
1-41 Class B misdemeanor, except that the offense is a state jail felony  
1-42 if:

1-43 (1) the defendant has been previously convicted two or  
1-44 more times of an offense under this chapter; or

1-45 (2) the computer, computer network, or computer system  
1-46 is owned by the government or a critical infrastructure facility.

1-47 (b-1) A person commits an offense if with the intent to  
1-48 obtain [unless in committing the offense the actor knowingly  
1-49 obtains] a benefit, defraud [defrauds] or harm [harms] another, or  
1-50 alter [alters], damage [damages], or delete [deletes] property, the  
1-51 person knowingly accesses a computer, computer network, or computer  
1-52 system without the effective consent of the owner.

1-53 (b-2) An offense under Subsection (b-1) [in which event the  
1-54 offense] is:

1-55 (1) [a Class A misdemeanor if the aggregate amount  
1-56 involved is less than \$1,500,

1-57 [(2) a state jail felony if:

1-58 [(A) the aggregate amount involved is \$1,500 or  
1-59 more but less than \$20,000, or

1-60 [(B) the aggregate amount involved is less than  
1-61 \$1,500 and the defendant has been previously convicted two or more  
1-62 times of an offense under this chapter,

1-63 [(3)] a felony of the third degree if the aggregate  
1-64 amount involved is [\$20,000 or more but] less than \$100,000;

2-1 (2) [~~(4)~~] a felony of the second degree if:

2-2 (A) the aggregate amount involved is \$100,000 or  
2-3 more but less than \$200,000; [~~or~~]

2-4 (B) the aggregate amount involved is any amount  
2-5 less than \$200,000 and the computer, computer network, or computer  
2-6 system is owned by the government or a critical infrastructure  
2-7 facility; or

2-8 (C) the actor obtains the identifying  
2-9 information of another by accessing only one computer, computer  
2-10 network, or computer system; or

2-11 (3) [~~(5)~~] a felony of the first degree if:

2-12 (A) the aggregate amount involved is \$200,000 or  
2-13 more; or

2-14 (B) the actor obtains the identifying  
2-15 information of another by accessing more than one computer,  
2-16 computer network, or computer system.

2-17 (d) A person who is [~~his~~] subject to prosecution under this  
2-18 section and any other section of this code may be prosecuted under  
2-19 either or both sections.

2-20 (e) It is a defense to prosecution under this section that  
2-21 the person acted with the intent to facilitate a lawful seizure or  
2-22 search of, or lawful access to, a computer, computer network, or  
2-23 computer system for a legitimate law enforcement purpose.

2-24 SECTION 3. The change in law made by this Act applies only  
2-25 to an offense committed on or after the effective date of this Act.  
2-26 An offense committed before the effective date of this Act is  
2-27 covered by the law in effect when the offense was committed, and the  
2-28 former law is continued in effect for that purpose. For purposes of  
2-29 this section, an offense was committed before the effective date of  
2-30 this Act if any element of the offense occurred before that date.

2-31 SECTION 4. This Act takes effect September 1, 2011.

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