

A BILL TO BE ENTITLED

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 Subdivision (10-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           SECTION 2. Section 33.02, Penal Code, is amended by  
6 amending Subsections (b) and (d) and adding Subsections (b-1) and  
7 (b-2) to read as follows:

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

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

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

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

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

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

25           [~~(2)~~] a state jail felony if[~~+~~

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

1                   ~~[(B) the aggregate amount involved is less than~~  
2 ~~\$1,500 and the defendant has been previously convicted two or more~~  
3 ~~times of an offense under this chapter];~~

4                   (2) ~~[(3)]~~ a felony of the third degree if the  
5 aggregate amount involved is \$20,000 or more but less than  
6 \$100,000;

7                   (3) ~~[(4)]~~ a felony of the second degree if:

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

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

14                   (4) ~~[(5)]~~ a felony of the first degree if the  
15 aggregate amount involved is \$200,000 or more.

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

19                   SECTION 3. The change in law made by this Act applies only  
20 to an offense committed on or after the effective date of this Act.  
21 An offense committed before the effective date of this Act is  
22 covered by the law in effect when the offense was committed, and the  
23 former law is continued in effect for that purpose. For purposes of  
24 this section, an offense was committed before the effective date of  
25 this Act if any element of the offense occurred before that date.

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