

House Bill 3396
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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;

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

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

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

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

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

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

(2) the computer, computer network, or computer system is

SENATE VERSION (IE)

SECTION 1. Same as House version.

CONFERENCE

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

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

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

(2) the computer, computer network, or computer system is

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owned by the government or a critical infrastructure facility.
(b-1) A person commits an offense if with the intent to obtain ~~[unless in committing the offense the actor knowingly obtains]~~ a benefit, defraud [defrauds] or harm [harms] another, or alter [alters], damage [damages], or delete [deletes] property, the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.
(b-2) An offense under Subsection (b-1) ~~[in which event the offense]~~ is:
(1) [a Class A misdemeanor if the aggregate amount involved is less than \$1,500;
~~[(2) a state jail felony if:~~
~~[(A) the aggregate amount involved is \$1,500 or more but less than \$20,000; or~~
~~[(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter;~~
~~[(3) a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;~~
(2) [(4) a felony of the second degree if:
(A) the aggregate amount involved is \$100,000 or more but less than \$200,000; ~~or~~
(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or
(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or
(3) [(5) a felony of the first degree if:
(A) the aggregate amount involved is \$200,000 or more; or
(B) the actor obtains the identifying information of another by

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owned by the government or a critical infrastructure facility.
(b-1) A person commits an offense if with the intent to defraud ~~[unless in committing the offense the actor knowingly obtains a benefit, defrauds]~~ or harm [harms] another[;] or alter [alters], damage [damages], or delete [deletes] property, the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.
(b-2) An offense under Subsection (b-1) ~~[in which event the offense]~~ is:
(1) [a Class A misdemeanor if the aggregate amount involved is less than \$1,500;
~~[(2) a state jail felony if [;~~
~~[(A) the aggregate amount involved is [\$1,500 or more but less than \$20,000[; or~~
~~[(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];~~
(2) [(3) a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;
(3) [(4) a felony of the second degree if:
(A) the aggregate amount involved is \$100,000 or more but less than \$200,000;
(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or
(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or
(4) [(5) a felony of the first degree if:
(A) the aggregate amount involved is \$200,000 or more; or
(B) the actor obtains the identifying information of another by

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accessing more than one computer, computer network, or computer system.

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

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

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

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

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accessing more than one computer, computer network, or computer system.

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

(e) It is a defense to prosecution under this section that the person acted with the intent to facilitate a lawful seizure or search of, or lawful access to, a computer, computer network, or computer system for a legitimate law enforcement purpose.
[FA1(1) and (2)]

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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