

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3557
By: Paddie (Birdwell)
Natural Resources & Economic Development
5/17/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3557 amends current law relating to civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility and creates criminal offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires this Act to be known as the Critical Infrastructure Protection Act.

SECTION 2. Amends Subtitle B, Title 4, Government Code, by adding Chapter 424, as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. DEFINITION. Defines "critical infrastructure facility."

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: DAMAGING OR DESTROYING CRITICAL INFRASTRUCTURE FACILITY. (a) Provides that a person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly damages or destroys the facility or impairs or interrupts the operation of the facility.

(b) Provides that an offense under this section is a felony of the third degree.

(c) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under another law, to be prosecuted under this section, the other law, or both.

Sec. 424.052. OFFENSE: INTENT TO DAMAGE OR DESTROY CRITICAL INFRASTRUCTURE FACILITY. (a) Provides that a person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility with the intent to damage or destroy the facility or impair or interrupt the operation of the facility.

(b) Provides that an offense under this section is a state jail felony.

(c) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under another law, to be prosecuted under this section, the other law, or both.

Sec. 424.053. PUNISHMENT FOR CORPORATIONS AND ASSOCIATIONS. Requires a court, notwithstanding Section 12.51 (Authorized Punishment For Corporations and Associations), Penal Code, to sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed \$500,000.

Sec. 424.054. RESTITUTION. Authorizes a court, if a defendant is convicted of an offense under this subchapter and the offense results in damage to or destruction of property, to, in accordance with Article 42.037 (Restitution), Code of Criminal Procedure, order the defendant to make restitution to the owner of the damaged or destroyed property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction.

SUBCHAPTER C. CIVIL LIABILITY

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) Provides that a defendant who engages in conduct constituting an offense under Section 424.051 or 424.052 is liable to the property owner, as provided by this subchapter, for damages arising from that conduct.

(b) Provides that it is not a defense to liability under this section that a defendant has been acquitted or has not been prosecuted or convicted under Section 424.051 or 424.052, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this section.

Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. Provides that, in addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051 or 424.052.

Sec. 424.103. DAMAGES. (a) Requires a claimant who prevails in a suit under this subchapter to be awarded actual damages and court costs.

(b) Authorizes a claimant who prevails in a suit under this subchapter, in addition to an award under Subsection (a), to recover exemplary damages.

Sec. 424.104. CAUSE OF ACTION CUMULATIVE. Provides that the cause of action created by this subchapter is cumulative of any other remedy provided by common law or statute.

Sec. 424.105. NONAPPLICABILITY. Provides that the following provisions of the Civil Practice and Remedies Code do not apply to a cause of action arising under this subchapter: Chapter 27 (Actions Involving the Exercise of Certain Constitutional Rights) and Section 41.008 (Records).

SECTION 3. Reenacts Section 423.0045(a)(1), Government Code, as amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of the 85th Legislature, Regular Session, 2017, and makes no further changes.

SECTION 4. Reenacts Section 423.0045(a)(1-a), Government Code, as added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature, Regular Session, 2017, to conform to the changes made by Chapter 824 (H.B. 1643), Acts of the 85th Legislature, Regular Session, 2017, and makes no further changes.

SECTION 5. Makes application of Subchapter C, Chapter 424, Government Code, as added by this Act, prospective.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: upon passage or September 1, 2019.