86R5246 JCG-D

By:  Fallon S.B. No. 2229

A BILL TO BE ENTITLED

AN ACT

relating to criminal liability for engaging in certain conduct involving a critical infrastructure facility; increasing criminal penalties.

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

SECTION 1.  Section 12.51, Penal Code, is amended by adding Subsection (f) to read as follows:

(f)  Notwithstanding any other provision of this section, a court shall sentence a corporation or association adjudged guilty of any of the following offenses and subject to any of the following punishments to pay a fine equal to the maximum possible amount of the applicable fine multiplied by 10:

(1)  Section 28.02(d-1) or (d-2);

(2)  Section 28.03(l) or (m); and

(3)  Section 30.05(d)(3)(A)(iii) or (4).

SECTION 2.  Section 28.02, Penal Code, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1)  Notwithstanding Subsection (d) and except as provided by Subsection (d-2), an offense under this section is a felony punishable by a fine of $100,000 or imprisonment for not more than 10 years, or both the fine and imprisonment, if the offense is committed on or in a critical infrastructure facility, as defined by Section 30.05.

(d-2)  If an offense under this section is punishable under Subsection (d-1) and Subsection (d)(1) or (2), the offense may be punished under either subsection. Notwithstanding Section 12.32(b), if an offense to which this subsection applies is punished under Subsection (d)(1) or (2), the defendant may, in addition to the imprisonment, be punished by a fine of $100,000.

SECTION 3.  Section 28.03, Penal Code, is amended by adding Subsections (l) and (m) to read as follows:

(l)  Notwithstanding Subsection (b) and except as provided by Subsection (m), an offense under this section is a felony punishable by a fine of $100,000 or imprisonment for not more than 10 years, or both the fine and imprisonment, if the offense is committed on or in a critical infrastructure facility, as defined by Section 30.05.

(m)  If an offense under this section is punishable under Subsection (l) and Subsection (b)(7), the offense may be punished under either subsection. Notwithstanding Section 12.32(b), if an offense to which this subsection applies is punished under Subsection (b)(7), the defendant may, in addition to the imprisonment, be punished by a fine of $100,000.

SECTION 4.  Section 30.05(b)(7), Penal Code, is amended to read as follows:

(7)  "Critical infrastructure facility" means:

(A)  one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) [~~(A)~~]  a chemical, polymer, or rubber manufacturing facility;

(ii) [~~(B)~~]  a refinery;

(iii) [~~(C)~~]  an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility, including electric power lines;

(iv) [~~(D)~~]  a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(v) [~~(E)~~]  a natural gas transmission compressor station;

(vi) [~~(F)~~]  a liquid natural gas terminal or storage facility;

(vii) [~~(G)~~]  a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

(viii) [~~(H)~~]  a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;

(ix) [~~(I)~~]  a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; [~~or~~]

(x) [~~(J)~~]  a transmission facility used by a federally licensed radio or television station;

(xi)  a steelmaking facility that uses an electric arc furnace to make steel;

(xii)  a dam that is classified as a high hazard by the Texas Commission on Environmental Quality or that is regulated by the federal government;

(xiii)  a facility identified and regulated by the United States Department of Homeland Security under the Chemical Facility Anti-Terrorism Standards program;

(xiv)  a natural gas distribution utility facility, including a pipeline interconnection, gate station, metering station, storage facility, or regulator station; or

(xv)  a facility for storing and distributing crude oil or products refined from crude oil, including a valve site, pipeline interconnection, pump station, metering station, and piping and including a facility for loading and unloading trucks that transport crude oil or products refined from crude oil; or

(B)  if enclosed by a fence or other physical barrier or clearly marked with signs prohibiting trespassing, for the evident purpose of excluding intruders:

(i)  any aboveground portion of an oil, gas, or hazardous chemical pipeline;

(ii)  a tank or group of tanks used to store oil, gas, or hazardous chemicals, such as a tank battery;

(iii)  an oil, gas, or hazardous chemical production facility; or

(iv)  a facility for storing hazardous chemicals.

SECTION 5.  Section 30.05(d), Penal Code, is amended to read as follows:

(d)  An offense under this section is:

(1)  a Class B misdemeanor, except as provided by Subdivisions (2), [~~and~~] (3), and (4);

(2)  a Class C misdemeanor, except as provided by Subdivisions [~~Subdivision~~] (3) and (4), if the offense is committed:

(A)  on agricultural land and within 100 feet of the boundary of the land; or

(B)  on residential land and within 100 feet of a protected freshwater area; [~~and~~]

(3)  a Class A misdemeanor, except as provided by Subdivision (4), if:

(A)  the offense is committed:

(i)  in a habitation or a shelter center;

(ii)  on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B)  the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i)  an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii)  an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education; or

(C)  the person carries a deadly weapon during the commission of the offense; or

(4)  a state jail felony punishable by a fine of $10,000 or by confinement for a term of one year, or both the fine and confinement, if:

(A)  the offense is committed on or in a critical infrastructure facility; and

(B)  it is shown on the trial of the offense that the defendant committed the offense with the intent to:

(i)  damage, destroy, deface, or tamper with equipment in the facility; or

(ii)  impede or inhibit the operations of the facility.

SECTION 6.  The changes in law made by this Act apply 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 governed by the law in effect on the date 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 7.  This Act takes effect September 1, 2019.