

By: Paddie

H.B. No. 3557

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for engaging in certain conduct involving a critical infrastructure facility; creating criminal offenses.

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

SECTION 1. This Act shall be known as the Critical Infrastructure Protection Act.

SECTION 2. Subtitle B, Title 4, Government Code, is amended by adding Chapter 424 to read as follows:

CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 424.001. DEFINITION. In this chapter, "critical infrastructure facility" has the meaning assigned by Section 423.0045(a)(1-a) and also includes:

(1) any pipeline transporting oil or gas or the products or constituents of oil or gas; and

(2) a facility or pipeline described by this section that is under construction and all equipment and appurtenances used during that construction.

SUBCHAPTER B. CRIMINAL LIABILITY

Sec. 424.051. OFFENSE: DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) 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

1 knowingly destroys the facility or impairs or interrupts the  
2 operation of the facility.

3 (b) An offense under this section is a felony of the third  
4 degree.

5 (c) If conduct constituting an offense under this section  
6 also constitutes an offense under another law, the actor may be  
7 prosecuted under this section, the other law, or both.

8 Sec. 424.052. OFFENSE: INTENT TO DAMAGE CRITICAL  
9 INFRASTRUCTURE FACILITY. (a) A person commits an offense if,  
10 without the effective consent of the owner, the person enters or  
11 remains on or in a critical infrastructure facility with the intent  
12 to destroy the facility or impair or interrupt the operation of the  
13 facility.

14 (b) An offense under this section is a state jail felony.

15 (c) If conduct constituting an offense under this section  
16 also constitutes an offense under another law, the actor may be  
17 prosecuted under this section, the other law, or both.

18 Sec. 424.053. PUNISHMENT FOR CORPORATIONS AND  
19 ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court  
20 shall sentence a corporation or association adjudged guilty of an  
21 offense under this subchapter to pay a fine not to exceed \$500,000.

22 Sec. 424.054. RESTITUTION. If a defendant is convicted of  
23 an offense under this subchapter and the offense results in damage  
24 to or destruction of property, a court may, in accordance with  
25 Article 42.037, Code of Criminal Procedure, order the defendant to  
26 make restitution to the owner of the damaged or destroyed property,  
27 or the owner's designee, in an amount equal to the value of the

1 property on the date of the damage or destruction.

2 SUBCHAPTER C. CIVIL LIABILITY

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

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

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

22 Sec. 424.103. DAMAGES. (a) A claimant who prevails in a  
23 suit under this subchapter shall be awarded:

- 24 (1) actual damages; and  
25 (2) court costs.

26 (b) In addition to an award under Subsection (a), a claimant  
27 who prevails in a suit under this subchapter may recover exemplary

1 damages.

2 Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of  
3 action created by this subchapter is cumulative of any other remedy  
4 provided by common law or statute.

5 Sec. 424.105. NONAPPLICABILITY. The following provisions  
6 of the Civil Practice and Remedies Code do not apply to a cause of  
7 action arising under this subchapter:

8 (1) Chapter 27; and

9 (2) Section 41.008.

10 SECTION 3. Section 423.0045(a)(1), Government Code, as  
11 amended by Chapters 824 (H.B. 1643) and 1010 (H.B. 1424), Acts of  
12 the 85th Legislature, Regular Session, 2017, is reenacted to read  
13 as follows:

14 (1) "Correctional facility" means:

15 (A) a confinement facility operated by or under  
16 contract with any division of the Texas Department of Criminal  
17 Justice;

18 (B) a municipal or county jail;

19 (C) a confinement facility operated by or under  
20 contract with the Federal Bureau of Prisons; or

21 (D) a secure correctional facility or secure  
22 detention facility, as defined by Section 51.02, Family Code.

23 SECTION 4. Section 423.0045(a)(1-a), Government Code, as  
24 added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature,  
25 Regular Session, 2017, is reenacted to conform to the changes made  
26 to Section 423.0045(a)(1), Government Code, by Chapter 824 (H.B.  
27 1643), Acts of the 85th Legislature, Regular Session, 2017, to read

1 as follows:

2 (1-a) "Critical infrastructure facility" means:

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

8 (i) a petroleum or alumina refinery;

9 (ii) an electrical power generating  
10 facility, substation, switching station, or electrical control  
11 center;

12 (iii) a chemical, polymer, or rubber  
13 manufacturing facility;

14 (iv) a water intake structure, water  
15 treatment facility, wastewater treatment plant, or pump station;

16 (v) a natural gas compressor station;

17 (vi) a liquid natural gas terminal or  
18 storage facility;

19 (vii) a telecommunications central  
20 switching office or any structure used as part of a system to  
21 provide wired or wireless telecommunications services;

22 (viii) a port, railroad switching yard,  
23 trucking terminal, or other freight transportation facility;

24 (ix) a gas processing plant, including a  
25 plant used in the processing, treatment, or fractionation of  
26 natural gas;

27 (x) a transmission facility used by a

1 federally licensed radio or television station;

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

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

6 (xiii) a concentrated animal feeding  
7 operation, as defined by Section 26.048, Water Code; or

8 (B) if enclosed by a fence or other physical  
9 barrier obviously designed to exclude intruders:

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

12 (ii) an oil or gas drilling site;

13 (iii) a group of tanks used to store crude  
14 oil, such as a tank battery;

15 (iv) an oil, gas, or chemical production  
16 facility;

17 (v) an oil or gas wellhead; or

18 (vi) any oil and gas facility that has an  
19 active flare.

20 SECTION 5. The change in law made by this Act in adding  
21 Subchapter C, Chapter 424, Government Code, applies only to a cause  
22 of action that accrues on or after the effective date of this Act. A  
23 cause of action that accrues before the effective date of this Act  
24 is governed by the law in effect immediately before that date, and  
25 that law is continued in effect for that purpose.

26 SECTION 6. To the extent of any conflict, this Act prevails  
27 over another Act of the 86th Legislature, Regular Session, 2019,

1 relating to nonsubstantive additions to and corrections in enacted  
2 codes.

3         SECTION 7. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2019.