

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: DAMAGING OR DESTROYING 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

1 intentionally or knowingly damages or destroys the facility.

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

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

7 (d) It is a defense to prosecution under this section that
8 the damage caused to the critical infrastructure facility was only
9 superficial.

10 Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION
11 OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an
12 offense if, without the effective consent of the owner, the person
13 enters or remains on or in a critical infrastructure facility and
14 intentionally or knowingly impairs or interrupts the operation of
15 the facility.

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

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

20 Sec. 424.053. OFFENSE: INTENT TO DAMAGE OR DESTROY CRITICAL
21 INFRASTRUCTURE FACILITY. (a) A person commits an offense if,
22 without the effective consent of the owner, the person enters or
23 remains on or in a critical infrastructure facility with the intent
24 to damage or destroy the facility.

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

26 (c) If conduct constituting an offense under this section
27 also constitutes an offense under another law, the actor may be

1 prosecuted under this section, the other law, or both.

2 (d) It is a defense to prosecution under this section that
3 the actor intended to cause only superficial damage to the critical
4 infrastructure facility.

5 Sec. 424.054. OFFENSE: INTENT TO IMPAIR OR INTERRUPT
6 OPERATION OF CRITICAL INFRASTRUCTURE FACILITY. (a) A person
7 commits an offense if, without the effective consent of the owner,
8 the person enters or remains on or in a critical infrastructure
9 facility with the intent to impair or interrupt the operation of the
10 facility.

11 (b) An offense under this section is a Class A misdemeanor.

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

15 Sec. 424.055. PUNISHMENT FOR CORPORATIONS AND
16 ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court
17 shall sentence a corporation or association adjudged guilty of an
18 offense under this subchapter to pay a fine not to exceed \$500,000.

19 Sec. 424.056. RESTITUTION. If a defendant is convicted of
20 an offense under this subchapter and the offense results in damage
21 to or destruction of property, a court may, in accordance with
22 Article 42.037, Code of Criminal Procedure, order the defendant to
23 make restitution to the owner of the damaged or destroyed property,
24 or the owner's designee, in an amount equal to the value of the
25 property on the date of the damage or destruction.

26 SUBCHAPTER C. CIVIL LIABILITY

27 Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL

1 INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct
2 constituting an offense under Section 424.051, 424.052, 424.053, or
3 424.054 is liable to the property owner, as provided by this
4 subchapter, for damages arising from that conduct.

5 (b) It is not a defense to liability under this section that
6 a defendant has been acquitted or has not been prosecuted or
7 convicted under Section 424.051, 424.052, 424.053, or 424.054, or
8 has been convicted of a different offense or of a different type or
9 class of offense, for the conduct that is alleged to give rise to
10 liability under this section.

11 Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to
12 any liability under Section 424.101, an organization that, acting
13 through an officer, director, or other person serving in a
14 managerial capacity, knowingly compensates a person for engaging in
15 conduct occurring on the premises of a critical infrastructure
16 facility is liable to the property owner, as provided by this
17 subchapter, for damages arising from the conduct if the conduct
18 constituted an offense under Section 424.051, 424.052, 424.053, or
19 424.054.

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

22 (1) actual damages; and

23 (2) court costs.

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

27 Sec. 424.104. CAUSE OF ACTION CUMULATIVE. The cause of

1 action created by this subchapter is cumulative of any other remedy
2 provided by common law or statute.

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

6 (1) Chapter 27; and

7 (2) Section 41.008.

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

12 (1) "Correctional facility" means:

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

16 (B) a municipal or county jail;

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

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

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

27 (1-a) "Critical infrastructure facility" means:

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

6 (i) a petroleum or alumina refinery;

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

10 (iii) a chemical, polymer, or rubber
11 manufacturing facility;

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

14 (v) a natural gas compressor station;

15 (vi) a liquid natural gas terminal or
16 storage facility;

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

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

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

25 (x) a transmission facility used by a
26 federally licensed radio or television station;

27 (xi) a steelmaking facility that uses an

1 electric arc furnace to make steel;

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

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

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

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

10 (ii) an oil or gas drilling site;

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

13 (iv) an oil, gas, or chemical production
14 facility;

15 (v) an oil or gas wellhead; or

16 (vi) any oil and gas facility that has an
17 active flare.

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 3557 was passed by the House on May 7, 2019, by the following vote: Yeas 90, Nays 51, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3557 on May 23, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3557 on May 26, 2019, by the following vote: Yeas 97, Nays 49, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3557

I certify that H.B. No. 3557 was passed by the Senate, with amendments, on May 20, 2019, by the following vote: Yeas 25, Nays 6; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3557 on May 26, 2019, by the following vote: Yeas 19, Nays 12.

Secretary of the Senate

APPROVED: _____

Date

Governor