

By: Paddie

H.B. No. 3557

Substitute the following for H.B. No. 3557:

By: Smith

C.S.H.B. No. 3557

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

10 CHAPTER 424. PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 424.001. DEFINITION. In this chapter, "critical
13 infrastructure facility" has the meaning assigned by Section
14 423.0045(a)(1-a) and also includes a critical infrastructure
15 facility that is under construction and all equipment and
16 appurtenances used during that construction.

17 SUBCHAPTER B. CRIMINAL LIABILITY

18 Sec. 424.051. OFFENSE: DAMAGE TO CRITICAL INFRASTRUCTURE
19 FACILITY. (a) A person commits an offense if, without the
20 effective consent of the owner, the person intentionally or
21 knowingly:

22 (1) damages, destroys, vandalizes, defaces, or
23 tampers with a critical infrastructure facility; or

24 (2) impedes, inhibits, or otherwise interferes with

1 the operation of a critical infrastructure facility.

2 (b) An offense under this section is a felony of the second
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 Sec. 424.052. OFFENSE: INTENT TO DAMAGE CRITICAL
8 INFRASTRUCTURE FACILITY. (a) A person commits an offense if,
9 without the effective consent of the owner, the person enters or
10 remains on or in a critical infrastructure facility with the
11 intent:

12 (1) to damage, destroy, vandalize, deface, or tamper
13 with the facility; or

14 (2) to impede, inhibit, or otherwise interfere with
15 the operation of 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. PUNISHMENT FOR CORPORATIONS AND
21 ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court
22 shall sentence a corporation or association adjudged guilty of an
23 offense under this subchapter to pay a fine of \$1 million.

24 Sec. 424.054. RESTITUTION. If a defendant is convicted of
25 an offense under this subchapter and the offense results in damage
26 to or destruction of property, a court may, in accordance with
27 Article 42.037, Code of Criminal Procedure, order the defendant to

1 make restitution to the owner of the damaged or destroyed property,
2 or the owner's designee, in an amount equal to the value of the
3 property on the date of the damage or destruction.

4 SUBCHAPTER C. CIVIL LIABILITY

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

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

16 Sec. 424.102. CERTAIN VICARIOUS LIABILITY. Regardless of
17 the relationship between the organization and the person, an
18 organization that compensates a person for engaging in conduct
19 occurring on the premises of a critical infrastructure facility is
20 vicariously liable to the property owner, as provided by this
21 subchapter, for damages arising from the conduct if the conduct
22 constituted an offense under Section 424.051 or 424.052.

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

- 25 (1) actual damages;
26 (2) court costs; and
27 (3) reasonable attorney's fees.

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

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

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

10 (1) Chapter 27; and

11 (2) Section 41.008.

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

16 (1) "Correctional facility" means:

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

20 (B) a municipal or county jail;

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

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

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

1 to Section 423.0045(a)(1), Government Code, by Chapter 824 (H.B.
2 1643), Acts of the 85th Legislature, Regular Session, 2017, to read
3 as follows:

4 (1-a) "Critical infrastructure facility" means:

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

10 (i) a petroleum or alumina refinery;

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

14 (iii) a chemical, polymer, or rubber
15 manufacturing facility;

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

18 (v) a natural gas compressor station;

19 (vi) a liquid natural gas terminal or
20 storage facility;

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

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

26 (ix) a gas processing plant, including a
27 plant used in the processing, treatment, or fractionation of

1 natural gas;

2 (x) a transmission facility used by a
3 federally licensed radio or television station;

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

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

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

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

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

14 (ii) an oil or gas drilling site;

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

17 (iv) an oil, gas, or chemical production
18 facility;

19 (v) an oil or gas wellhead; or

20 (vi) any oil and gas facility that has an
21 active flare.

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

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

5 SECTION 7. This Act takes effect September 1, 2019.