

By: Birdwell

S.B. No. 1993

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

Sec. 424.001. DEFINITION. In this chapter "critical infrastructure facility" has the meaning assigned by Section 423.0045(a)(1-a), Government Code, and also includes a critical infrastructure facility that is being constructed and all of the equipment and appurtenances used during that construction.

Sec. 424.002. OFFENSE: DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense if, without the effective consent of the owner:

(1) the person intentionally or knowingly damages, destroys, vandalizes, defaces, or tampers with critical infrastructure facility; or

(2) the person intentionally or knowingly impedes, inhibits, or interferes with the operation of a critical infrastructure facility.

(b) An offense under this section is a second degree felony.

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

(d) Notwithstanding any provision in Section 12.51, Penal Code and in accordance with Chapter 7, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense in this section and subject to the punishment under subsection (b) to pay a fine equal to the maximum possible amount of the applicable fine multiplied by 100.

(e) If a defendant is convicted of an offense under Section 424.002 or 424.003 and the offense results in damage to or destruction of property, a court may order the defendant to make restitution to the owner of the destroyed or damaged property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction pursuant to Article 42.037 of the Code of Criminal Procedure.

Sec. 424.003. OFFENSE: INTENT TO DAMAGE 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 with the intent:

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

(2) to impede, inhibit, or interfere with the operation of the facility.

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

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

(d) Notwithstanding any provision in Section 12.51, Penal Code and in accordance with Chapter 7, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense in this section and subject to the punishment under subsection (b) to pay a fine equal to the maximum possible amount of the applicable fine multiplied by 100.

(e) If a defendant is convicted of an offense under Section 424.002 or 424.003 and the offense results in damage to or destruction of property, a court may order the defendant to make restitution to the owner of the destroyed or damaged property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction pursuant to Article 42.037 of the Code of Criminal Procedure.

Sec. 424.004. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.002 or 424.003 is liable to the property owner, as provided by this section, for damages arising from that conduct.

(b) 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 424.002 or 424.003, 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. 424.005. CERTAIN VICARIOUS LIABILITY. Regardless of the relationship between the organization and the person, an organization that compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is vicariously liable to the property owner, as provided by this chapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.002 or 424.003.

Sec. 424.006. DAMAGES. (a) A claimant who prevails in a suit under Section 424.004 or 424.005 shall be awarded:

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

(b) In addition to an award under Subsection (a) and notwithstanding Section 41.008(c), Civil Practices and Remedies Code, a claimant who prevails in a suit under Section 424.004 or 424.005 may recover exemplary damages.

Sec. 424.007. CAUSE OF ACTION CUMULATIVE. The cause of action created by Section 424.004 or 424.005 is cumulative of any other remedy provided by common law or statute.

Sec. 424.009. NONAPPLICABILITY. Chapter 27, Civil Practices and Remedies Code, does not apply to a cause of action under this chapter.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

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