

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(1) 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

1 Subsection (d-1) and Subsection (d)(1) or (2), the offense may be
2 punished under either subsection. Notwithstanding Section
3 12.32(b), if an offense to which this subsection applies is
4 punished under Subsection (d)(1) or (2), the defendant may, in
5 addition to the imprisonment, be punished by a fine of \$100,000.

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

8 (l) Notwithstanding Subsection (b) and except as provided
9 by Subsection (m), an offense under this section is a felony
10 punishable by a fine of \$100,000 or imprisonment for not more than
11 10 years, or both the fine and imprisonment, if the offense is
12 committed on or in a critical infrastructure facility, as defined
13 by Section 30.05.

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

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

22 (7) "Critical infrastructure facility" means:

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

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

3 (ii) [~~B~~] a refinery;

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

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

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

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

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

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

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

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

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

27 (xii) a dam that is classified as a high

1 hazard by the Texas Commission on Environmental Quality or that is
2 regulated by the federal government;

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

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

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

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

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

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

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

24 (iv) a facility for storing hazardous
25 chemicals.

26 SECTION 5. Section 30.05(d), Penal Code, is amended to read
27 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

1 commission of the offense; or

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

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

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

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

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

13 SECTION 6. The changes in law made by this Act apply only to
14 an offense committed on or after the effective date of this Act. An
15 offense committed before the effective date of this Act is governed
16 by the law in effect on the date the offense was committed, and the
17 former law is continued in effect for that purpose. For purposes of
18 this section, an offense was committed before the effective date of
19 this Act if any element of the offense occurred before that date.

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