

By: Fallon

S.B. No. 2229

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to criminal liability for engaging in certain conduct  
3 involving a critical infrastructure facility; increasing criminal  
4 penalties.

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

6 SECTION 1. Section 12.51, Penal Code, is amended by adding  
7 Subsection (f) to read as follows:

8 (f) Notwithstanding any other provision of this section, a  
9 court shall sentence a corporation or association adjudged guilty  
10 of any of the following offenses and subject to any of the following  
11 punishments to pay a fine equal to the maximum possible amount of  
12 the applicable fine multiplied by 10:

13 (1) Section 28.02(d-1) or (d-2);

14 (2) Section 28.03(1) or (m); and

15 (3) Section 30.05(d)(3)(A)(iii) or (4).

16 SECTION 2. Section 28.02, Penal Code, is amended by adding  
17 Subsections (d-1) and (d-2) to read as follows:

18 (d-1) Notwithstanding Subsection (d) and except as provided  
19 by Subsection (d-2), an offense under this section is a felony  
20 punishable by a fine of \$100,000 or imprisonment for not more than  
21 10 years, or both the fine and imprisonment, if the offense is  
22 committed on or in a critical infrastructure facility, as defined  
23 by Section 30.05.

24 (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:

1 (d) An offense under this section is:

2 (1) a Class B misdemeanor, except as provided by  
3 Subdivisions (2), ~~[and]~~ (3), and (4);

4 (2) a Class C misdemeanor, except as provided by  
5 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is  
6 committed:

7 (A) on agricultural land and within 100 feet of  
8 the boundary of the land; or

9 (B) on residential land and within 100 feet of a  
10 protected freshwater area; ~~[and]~~

11 (3) a Class A misdemeanor, except as provided by  
12 Subdivision (4), if:

13 (A) the offense is committed:

14 (i) in a habitation or a shelter center;

15 (ii) on a Superfund site; or

16 (iii) on or in a critical infrastructure  
17 facility;

18 (B) the offense is committed on or in property of  
19 an institution of higher education and it is shown on the trial of  
20 the offense that the person has previously been convicted of:

21 (i) an offense under this section relating  
22 to entering or remaining on or in property of an institution of  
23 higher education; or

24 (ii) an offense under Section 51.204(b)(1),  
25 Education Code, relating to trespassing on the grounds of an  
26 institution of higher education; or

27 (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.