

House Bill 3557
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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: DAMAGE TO 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 intentionally or knowingly destroys the facility or impairs or interrupts the operation of the facility.

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

(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.

SENATE VERSION (IE)

SECTION 1. Same as House version.

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 intentionally or knowingly damages or destroys the facility. [FA1(1)]

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

(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.

Sec. 424.052. OFFENSE: IMPAIRING OR INTERRUPTING OPERATION OF CRITICAL INFRASTRUCTURE FACILITY.

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(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 intentionally or knowingly impairs or interrupts the operation of the facility.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$10,000 or confinement in jail for a term not to exceed one year, or both the fine and confinement.

(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. [FA1(2)]

Sec. 424.053. OFFENSE: INTENT TO DAMAGE OR DESTROY 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 to damage or destroy the facility. [FA1(3)-(4)]

(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.

Sec. 424.054. OFFENSE: INTENT TO IMPAIR OR INTERRUPT OPERATION OF 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 to impair or interrupt the operation of the facility.

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

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

Sec. 424.052. 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 to destroy the facility or impair or interrupt 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.

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Sec. 424.053. PUNISHMENT FOR CORPORATIONS AND ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed \$500,000.

Sec. 424.054. RESTITUTION. If a defendant is convicted of an offense under this subchapter and the offense results in damage to or destruction of property, a court may, in accordance with Article 42.037, Code of Criminal Procedure, order the defendant to make restitution to the owner of the damaged or destroyed property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction.

SUBCHAPTER C. CIVIL LIABILITY

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.051 or 424.052 is liable to the property owner, as provided by this subchapter, 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 424.051 or 424.052, 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. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other

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prosecuted under this section, the other law, or both. [FA1(5)]

Sec. 424.055. PUNISHMENT FOR CORPORATIONS AND ASSOCIATIONS. Notwithstanding Section 12.51, Penal Code, a court shall sentence a corporation or association adjudged guilty of an offense under this subchapter to pay a fine not to exceed \$500,000. [FA1(6)]

Sec. 424.056. RESTITUTION. If a defendant is convicted of an offense under this subchapter and the offense results in damage to or destruction of property, a court may, in accordance with Article 42.037, Code of Criminal Procedure, order the defendant to make restitution to the owner of the damaged or destroyed property, or the owner's designee, in an amount equal to the value of the property on the date of the damage or destruction. [FA1(7)]

SUBCHAPTER C. CIVIL LIABILITY

Sec. 424.101. CIVIL LIABILITY FOR DAMAGE TO CRITICAL INFRASTRUCTURE FACILITY. (a) A defendant who engages in conduct constituting an offense under Section 424.051, 424.052, 424.053, or 424.054 is liable to the property owner, as provided by this subchapter, for damages arising from that conduct. [FA1(8)]

(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 424.051, 424.052, 424.053, or 424.054, 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. [FA1(9)]

Sec. 424.102. CERTAIN ADDITIONAL LIABILITY. In addition to any liability under Section 424.101, an organization that, acting through an officer, director, or other

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person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051 or 424.052.

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

- (1) actual damages; and
- (2) court costs.

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

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

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

- (1) Chapter 27; and
- (2) Section 41.008.

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

(1) "Correctional facility" means:

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

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person serving in a managerial capacity, knowingly compensates a person for engaging in conduct occurring on the premises of a critical infrastructure facility is liable to the property owner, as provided by this subchapter, for damages arising from the conduct if the conduct constituted an offense under Section 424.051, 424.052, 424.053, or 424.054.
[FA1(10)]

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

- (1) actual damages; and
- (2) court costs.

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

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

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

- (1) Chapter 27; and
- (2) Section 41.008.

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- (B) a municipal or county jail;
- (C) a confinement facility operated by or under contract with the Federal Bureau of Prisons; or
- (D) a secure correctional facility or secure detention facility, as defined by Section 51.02, Family Code.

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

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

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

- (i) a petroleum or alumina refinery;
- (ii) an electrical power generating facility, substation, switching station, or electrical control center;
- (iii) a chemical, polymer, or rubber manufacturing facility;
- (iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (v) a natural gas compressor station;
- (vi) a liquid natural gas terminal or storage facility;
- (vii) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

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- (viii) a port, railroad switching yard, trucking terminal, or other freight transportation facility;
 - (ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;
 - (x) a transmission facility used by a federally licensed radio or television station;
 - (xi) a steelmaking facility that uses an electric arc furnace to make steel;
 - (xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or
 - (xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or
- (B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:
- (i) any portion of an aboveground oil, gas, or chemical pipeline;
 - (ii) an oil or gas drilling site;
 - (iii) a group of tanks used to store crude oil, such as a tank battery;
 - (iv) an oil, gas, or chemical production facility;
 - (v) an oil or gas wellhead; or
 - (vi) any oil and gas facility that has an active flare.

SECTION 5. The change in law made by this Act in adding Subchapter C, Chapter 424, Government Code, 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.

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

SECTION 7. 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.

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SECTION 6. Same as House version.

SECTION 7. Same as House version.

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