

By: Birdwell \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for S.B. No. 1993:

By: \_\_\_\_\_ C.S. \_\_\_\_\_ .B. No. \_\_\_\_\_

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, or tampers with a  
23 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: TRESPASS WITH INTENT TO DAMAGE  
8 CRITICAL INFRASTRUCTURE FACILITY. (a) A person commits an offense  
9 if, without the effective consent of the owner, the person enters or  
10 remains on or in a critical infrastructure facility with the intent  
11 to:

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

14 (2) impede, inhibit, or otherwise interfere with the  
15 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 equal to the maximum  
24 possible amount of the applicable fine under that section  
25 multiplied by 100.

26 Sec. 424.054. RESTITUTION. If a defendant is convicted of  
27 an offense under this subchapter and the offense results in damage

1 to or destruction of property, a court may, in accordance with  
2 Article 42.037, Code of Criminal Procedure, order the defendant to  
3 make restitution to the owner of the damaged or destroyed property,  
4 or the owner's designee, in an amount equal to the value of the  
5 property on the date of the damage or destruction.

6 SUBCHAPTER C. CIVIL LIABILITY

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

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

19 Sec. 424.103. NO DEFENSE. It is not a defense to liability  
20 under this subchapter that the person alleged to have engaged in  
21 conduct constituting a violation under Section 424.051 or 424.052  
22 has been acquitted or has not been prosecuted or convicted under  
23 that section, or has been convicted of a different offense or of a  
24 different type or class of offense.

25 Sec. 424.104. DAMAGES. (a) A claimant who prevails in a  
26 suit under this subchapter shall be awarded:

27 (1) actual damages; and

1           (2) court costs.

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

5           Sec. 424.105. CAUSE OF ACTION CUMULATIVE. The cause of  
6 action created by this subchapter is cumulative of any other remedy  
7 provided by common law or statute.

8           Sec. 424.106. NONAPPLICABILITY. The following provisions  
9 of the Civil Practice and Remedies Code do not apply to a cause of  
10 action arising under this subchapter:

11           (1) Chapter 27; and

12           (2) Section 41.008.

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

17           (1) "Correctional facility" means:

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

21                   (B) a municipal or county jail;

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

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

26           SECTION 4. Section 423.0045(a)(1-a), Government Code, as  
27 added by Chapter 1010 (H.B. 1424), Acts of the 85th Legislature,

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

5 (1-a) "Critical infrastructure facility" means:

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

11 (i) a petroleum or alumina refinery;

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

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

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

19 (v) a natural gas compressor station;

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

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

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

27 (ix) a gas processing plant, including a

1 plant used in the processing, treatment, or fractionation of  
2 natural gas;

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

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

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

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

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

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

15 (ii) an oil or gas drilling site;

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

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

20 (v) an oil or gas wellhead; or

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

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

1 that law is continued in effect for that purpose.

2 SECTION 6. The change in law made by this Act applies only  
3 to an offense committed on or after the effective date of this Act.  
4 An offense committed before the effective date of this Act is  
5 governed by the law in effect on the date the offense was committed,  
6 and the former law is continued in effect for that purpose. For the  
7 purposes of this section, an offense was committed before the  
8 effective date of this Act if any element of the offense occurred  
9 before that date.

10 SECTION 7. To the extent of any conflict, this Act prevails  
11 over another Act of the 86th Legislature, Regular Session, 2019,  
12 relating to nonsubstantive additions to and corrections in enacted  
13 codes.

14 SECTION 8. This Act takes effect September 1, 2019.