

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H2/25/21

A Bill

HOUSE BILL 1321

5 By: Representative Gazaway
6

For An Act To Be Entitled

8 AN ACT CONCERNING OFFENSES COMMITTED AGAINST CRITICAL
9 INFRASTRUCTURE; AND FOR OTHER PURPOSES.
10

Subtitle

11 CONCERNING OFFENSES COMMITTED AGAINST
12 CRITICAL INFRASTRUCTURE.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 5-38-101, concerning definitions used with
20 respect to damage or property destruction offenses, is amended to add
21 additional subdivisions to read as follows:
22

23 (6) "Critical infrastructure" means any of the following
24 facilities that are either completely enclosed by a fence or other physical
25 barrier that is designed to exclude persons without permission to be in the
26 facility or otherwise is clearly marked with signs that are reasonably likely
27 to be seen by another person that indicate entry or unauthorized access is
28 forbidden without facility authorization:

29 (B) A chemical or rubber manufacturing facility;

30 (C) A water intake structure, water treatment facility,
31 wastewater facility, drainage facility, water management facility, or any
32 similar water or sewage treatment system and the water or sewage treatment
33 system's piping;

34 (D) A food processing or manufacturing facility; or

35 (E) A natural gas company facility or interstate natural
36 gas pipeline, including without limitation:

(i) A pipeline interconnection;



- 1 (ii) A natural gas compressor station and associated
2 facility;
- 3 (iii) A city gate or town border station;
4 (iv) A metering station;
5 (v) Aboveground piping;
6 (vi) A regulator station;
7 (vii) A valve site;
8 (viii) A delivery station;
9 (ix) Fabricated assembly and any part of a natural
10 gas storage facility involved in the gathering, storage, transmission, or
11 distribution of gas;
- 12 (x) Wireline or wireless telecommunications
13 infrastructure, including telecommunications towers, telephone poles,
14 telephone lines, and fiber optic lines;
- 15 (xi) A port, trucking terminal, or other freight
16 transportation facility;
- 17 (xii) A gas processing plant, including a gas
18 processing plant used in the processing, treatment, or fractionation of
19 natural gas or natural gas liquids;
- 20 (xiii) A crude oil or refined products storage and
21 distribution facility, including without limitation:
- 22 (a) A valve site;
23 (b) A pipeline interconnection;
24 (c) A pump station;
25 (d) A metering station;
26 (e) A belowground or aboveground pipeline or
27 piping; and
- 28 (f) A truck loading or off-loading facility;
29 (g) An aboveground portion of a well, well
30 pad, or production operation;
- 31 (xiv) A laydown area or construction site for pipe
32 and other equipment intended for use on an interstate or intrastate natural
33 gas or crude oil pipeline;
- 34 (xv) A portion of an oil, gas, hazardous liquid or
35 chemical pipeline, tank, or other storage facility that is aboveground;
- 36 (xvi) A video service network and broadband

1 infrastructure, including without limitation:

2 (a) Associated buildings and facilities;

3 (b) Video service headends, towers, utility
4 poles, and utility lines; and

5 (c) Fiber optic lines;

6 (xvii) A mining operation, including any processing
7 equipment, batching operation, or support facility for that mining operation;

8 (xviii) A facility installed in a public right-of-
9 way on a utility pole or in a conduit that is aboveground and concerns a
10 video service network or broadband or wireless telecommunications

11 infrastructure;

12 (xix) Railroad property; and

13 (xx) Property owned by and considered an electronic
14 asset of any of the following:

15 (a) An electric utility;

16 (b) An electric cooperative;

17 (c) A municipal electric utility;

18 (d) A natural gas company that is a public
19 utility;

20 (e) A telephone company that is a public
21 utility; or

22 (f) A video service provider, including a
23 cable operator; and

24 (7) "Electronic asset" means:

25 (A) The hardware, software, and data of a programmable
26 electronic device;

27 (B) All communications, operations, and customer data
28 networks; and

29 (C) The contents of customer data networks.

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31 SECTION 2. Arkansas Code § 5-38-203(a) and (b), concerning the offense
32 of criminal mischief in the first degree, are amended to read as follows:

33 (a) A person commits the offense of criminal mischief in the first
34 degree if he or she purposely and without legal justification destroys or
35 causes damage to any:

36 (1) Property of another; ~~or~~

1 (2) Property, whether his or her own or property of another, for
2 the purpose of collecting any insurance for the property; or

3 (3) Critical infrastructure.

4 (b) Criminal mischief in the first degree is a:

5 (1) Class A misdemeanor if the amount of actual damage is one
6 thousand dollars (\$1,000) or less;

7 (2) Class D felony if the amount of actual damage is more than
8 one thousand dollars (\$1,000) but five thousand dollars (\$5,000) or less;

9 (3) Class C felony if the amount of actual damage is more than
10 five thousand dollars (\$5,000) but less than twenty-five thousand dollars
11 (\$25,000); or

12 (4) Class B felony if:

13 (A) the The amount of actual damage is twenty-five
14 thousand dollars (\$25,000) or more; or

15 (B) The property is critical infrastructure.

16
17 SECTION 3. Arkansas Code § 5-39-101, concerning definitions used with
18 respect to burglary, trespass, and other intrusion offenses, is amended to
19 add an additional subdivision to read as follows:

20 (10) "Critical infrastructure" means the same as defined in § 5-
21 38-101.

22
23 SECTION 4. Arkansas Code § 5-39-203(a) and (b), concerning the offense
24 of criminal trespass, are amended to read as follows:

25 (a) A person commits criminal trespass if he or she purposely enters
26 or remains unlawfully in or upon:

27 (1) A vehicle of another person; ~~or~~

28 (2) The premises owned or leased by another person; or

29 (3) Critical infrastructure.

30 (b) Criminal trespass is a:

31 (1) Class D felony if:

32 (A) the The person has two (2) or more convictions for a
33 Class A misdemeanor violation of this section or § 5-39-305; or

34 (B) The premises is critical infrastructure;

35 (2) Class A misdemeanor if:

36 (A) At the time of the criminal trespass, the person is in

- 1 possession of one (1) or more of the following:
- 2 (i) A killing device;
- 3 (ii) A harvesting device;
- 4 (iii) A device primarily used for the location and
- 5 unearthing of buried or submerged artifacts; or
- 6 (iv) A tool designed to gain entry into a structure
- 7 by breaking a lock or breaking through a fence, including without limitation
- 8 a boltcutter;
- 9 (B) The person is on premises containing a commercial
- 10 fishing or fish breeding operation and at that time is in possession of a
- 11 fishing pole or net designed to capture fish; or
- 12 (C) The person has a prior conviction for a violation of
- 13 this section;
- 14 (3) Class B misdemeanor if:
- 15 (A) The vehicle or premises involved is an occupiable
- 16 structure; or
- 17 (B) The conduct involves the removal of a posted sign, a
- 18 fence, or a portion of a fence as defined in § 2-39-102; or
- 19 (4) Class C misdemeanor if otherwise committed.

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21 SECTION 5. Arkansas Code § 5-39-305(a) and (b), concerning the offense

22 of criminal trespass on premises located in an unincorporated area, are

23 amended to read as follows:

24 (a)(1) A person shall not purposely enter without written permission

25 of the owner or lessee upon another person's premises located outside the

26 boundary of any city or town if those premises are ~~either~~:

- 27 (A) Lawfully posted;
- 28 (B) Crop land or timber land; ~~or~~
- 29 (C) Enclosed with a fence sufficient under § 2-39-101 et
- 30 seq.; or
- 31 (D) Critical infrastructure.

32 (2) The posting of premises is not a requirement under this

33 section.

34 (b) Criminal trespass on premises located in an unincorporated area is

35 a:

- 36 (1) Class D felony if:

1 (A) ~~the~~ The person has two (2) or more convictions for a
2 Class A misdemeanor violation of this section or § 5-39-203; or

3 (B) The premises is critical infrastructure;

4 (2) Class A misdemeanor if:

5 (A) At the time of the criminal trespass on premises
6 located in an unincorporated area, the person is in possession of one (1) or
7 more of the following:

8 (i) A killing device;

9 (ii) A harvesting device;

10 (iii) A device primarily used for the location and
11 unearthing of buried or submerged artifacts; or

12 (iv) A tool designed to gain entry into a structure
13 by breaking a lock or breaking through a fence, including without limitation
14 a boltcutter;

15 (B) The person is on premises containing a commercial
16 fishing or fish breeding operation and at that time is in possession of a
17 fishing pole or net designed to capture fish; or

18 (C) The person has a prior conviction for a violation of
19 this section;

20 (3) Class B misdemeanor if:

21 (A) The premises involved is an occupiable structure; or

22 (B) The conduct involves the removal of a posted sign, a
23 fence, or a portion of a fence as defined in § 2-39-102; or

24 (4) Violation with a fine not to exceed one hundred dollars
25 (\$100) if otherwise committed.

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27 /s/Gazaway
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