

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 167

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO CRITICAL INFRASTRUCTURE TRESPASS; AMENDING CHAPTER 70, TITLE
2 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7045, IDAHO CODE, TO
3 PROVIDE FOR THE CRIME OF CRITICAL INFRASTRUCTURE TRESPASS, TO PROVIDE
4 PENALTIES, TO PROVIDE EXCEPTIONS, TO AUTHORIZE THE ATTORNEY GENERAL TO
5 PROSECUTE CERTAIN PERSONS, AND TO DEFINE TERMS; AND DECLARING AN EMER-
6 GENCY AND PROVIDING AN EFFECTIVE DATE.
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 18-7045, Idaho Code, and to read as follows:

12 18-7045. CRITICAL INFRASTRUCTURE TRESPASS. (1) A person is guilty of
13 critical infrastructure trespass if the person knowingly and willfully en-
14 ters or remains in a critical infrastructure facility or a construction site
15 of a critical infrastructure facility without permission of the owner of the
16 property or after notice is given to depart or not to trespass. For purposes
17 of this section, notice is given by:

18 (a) Personal communication to the person by the owner or occupant, or
19 his agent, or by a peace officer;

20 (b) Posting of signs reasonably likely to come to the attention of in-
21 truders; or

22 (c) The presence of fencing or other physical barrier designed to ex-
23 clude intruders.

24 (2) The penalties for critical infrastructure trespass shall be as fol-
25 lows:

26 (a) Any person who pleads guilty to or is found guilty of a violation
27 of subsection (1) of this section for the first time shall be guilty of
28 a misdemeanor and may be sentenced to jail for a period of not more than
29 six (6) months, a fine in an amount not to exceed one thousand dollars
30 (\$1,000), or both; and

31 (b) Any person who pleads guilty to or is found guilty of a violation of
32 subsection (1) of this section for a second time within five (5) years
33 shall be guilty of a felony punishable by imprisonment in the state pen-
34 itentiary for a period of not more than ten (10) years, a fine not to ex-
35 ceed ten thousand dollars (\$10,000), or both.

36 (3) No person shall be liable for a violation of subsection (1) of this
37 section if that person:

38 (a) Owns or legally occupies the land upon which the facility is lo-
39 cated and is engaged in conduct not inconsistent with the operation of
40 the critical infrastructure facility or that is authorized by an agree-
41 ment;

1 (b) Is engaging in lawful behavior permitted by a legal or regulatory
2 process to which the critical infrastructure facility is subject; or

3 (c) Is participating in a public demonstration or engaging in lawful
4 conduct such as participating in a public demonstration to the extent
5 that such activity is protected under the United States constitution or
6 the constitution of the state of Idaho.

7 (4) An individual or organization that aids, abets, solicits, compen-
8 sates, hires, conspires with, commands, or procures a person to commit the
9 crime of critical infrastructure trespass is subject to a fine not to exceed
10 one hundred thousand dollars (\$100,000), provided that the individual or or-
11 ganization acted with the intent that the crime of critical infrastructure
12 trespass be completed. A critical infrastructure facility may maintain a
13 civil action against an individual or organization for damages suffered as
14 a consequence of a violation of this subsection, including damages for lost
15 profits, whether or not any fine is imposed pursuant to this subsection.

16 (5) The Idaho attorney general shall have the authority, at the attor-
17 ney general's sole discretion, to prosecute a person for a criminal viola-
18 tion of the provisions of this section if the prosecuting attorney autho-
19 rized to prosecute criminal violations of this section refuses to prosecute
20 such violations.

21 (6) As used in this section:

22 (a) "Critical infrastructure facility" means any facility so vital
23 to the state of Idaho, including its political subdivisions, that the
24 incapacity or destruction of such system or asset would have a debili-
25 tating impact on state or national economic security, state or national
26 public health or safety, or any combination of those matters. The term
27 includes but is not limited to facilities in the following sectors
28 as listed by the federal cybersecurity and infrastructure security
29 agency:

- 30 (i) Chemical manufacturing, storage, use, and transportation;
31 (ii) Commercial facilities with open public access where the gen-
32 eral public can move freely without the deterrent of highly visi-
33 ble security barriers;
34 (iii) Communications;
35 (iv) Critical manufacturing;
36 (v) Dams;
37 (vi) Defense industrial bases;
38 (vii) Emergency services;
39 (viii) Energy;
40 (ix) Financial services;
41 (x) Food and agriculture;
42 (xi) Government facilities;
43 (xii) Health care and public health;
44 (xiii) Information technology;
45 (xiv) Mineral exploration, mining operations, and mineral pro-
46 cessing;
47 (xv) Nuclear reactors, materials, and waste;
48 (xvi) Transportation systems; and
49 (xvii) Water and wastewater.

1 (b) "Organization" means a partnership, corporation, joint stock com-
2 pany, or any other association or entity, public or private, other than
3 an individual.

4 SECTION 2. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2023.