AN ACT
RELATING TO CRITICAL INFRASTRUCTURE; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7045, IDAHO CODE, TO PROVIDE FOR THE CRIME OF IMPEDING CRITICAL INFRASTRUCTURE, TO PROVIDE PENALTIES, TO PROVIDE THAT AGGREGATE DAMAGE MAY BE A VIOLATION, TO PROVIDE THAT AN ORGANIZATION MAY IMPEDE CRITICAL INFRASTRUCTURE IN CERTAIN INSTANCES, TO PROVIDE EXCEPTIONS, AND TO DEFINE TERMS; AND AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7046, IDAHO CODE, TO PROVIDE FOR THE CRIME OF CRITICAL INFRASTRUCTURE TRESPASS, TO PROVIDE A PENALTY, TO PROVIDE EXCEPTIONS, AND TO DEFINE A TERM.

Be It Enacted by the Legislature of the State of Idaho:

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

18-7045. IMPEDING CRITICAL INFRASTRUCTURE. (1) A person is guilty of impeding critical infrastructure if he intentionally or knowingly impedes the operations of a critical infrastructure facility in a manner not otherwise authorized by law.
(2) Impeding critical infrastructure shall be:
(a) A misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars ($1,000), or both, if the impediment causes damage or economic loss, the cost of which is less than one thousand dollars ($1,000); or
(b) A felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars ($10,000), or both, if the impediment causes damage or economic loss, the cost of which is one thousand dollars ($1,000) or more.
(3) If a series of damages or losses results from a single continuing course of conduct, a single violation of this section may be charged and penalties imposed based on the aggregate cost of the damage or loss.
(4) An organization that aids, abets, solicits, compensates, hires, conspires with, commands, or procures a person to commit the crime of impeding critical infrastructure is subject to a fine not to exceed one hundred thousand dollars ($100,000), provided that the organization acted with the intent that the crime of impeding critical infrastructure be completed. A critical infrastructure facility may maintain a civil action against an organization for damages suffered as a consequence of a violation of this subsection, including damages for lost profits, whether or not any fine is imposed pursuant to this subsection.
(5) Nothing in this section shall be construed to apply to public demonstrations or other expressions of free speech or free association to the ex-
tent that such activity is protected under the United States or the Idaho
constitution.
(6) No person shall be liable for impeding critical infrastructure if
the person:
   (a) Owns or legally occupies the land upon which the critical infra-
       structure facility is located and is engaged in conduct not inconsis-
       tent with the operation of the critical infrastructure facility or that
       is authorized by an agreement;
   (b) Is lawfully engaged in any regulatory or legal process to which the
       critical infrastructure facility is subject; or
   (c) Is engaged in conduct arising out of a bona fide dispute about ac-
       cess to land.
(7) As used in this section:
   (a) "Critical infrastructure facility" means:
        (i) Any portion of an oil, gas, hazardous liquid or chemical
            pipeline, or tank that is buried, enclosed by a fence, enclosed by
            a physical barrier, or is clearly marked with signs prohibiting
            trespassing that are obviously designed to exclude intruders; or
        (ii) One (1) of the following, if completely enclosed by a fence or
             other physical barrier that is obviously designed to exclude in-
             truders, or if clearly marked with a sign or signs that are reason-
             ably likely to come to the attention of intruders and indicate that
             entry is forbidden without authorization:
             1. A chemical or polymer manufacturing facility;
             2. A telecommunications central switching office;
             3. Wireless or other telecommunications infrastructure,
                including cell towers, microwave towers, telephone poles
                and lines, or fiber-optic lines, other than those connecting
                to individual residences;
             4. A transmission facility used by a federally licensed ra-
                dio or television station or a governmental law enforcement
                or emergency services radio system;
             5. A liquid natural gas terminal or storage facility;
             6. A natural gas compressor station;
             7. A natural gas distribution utility facility, including
                transmission facilities, pipeline interconnections, a city
                gate or town border station, metering stations, piping, a
                regulator station, or a natural gas storage facility;
             8. An aboveground or underground mining facility;
             9. An electrical power generating facility, substation,
                switching station, electrical control center, or electric
                power lines and associated equipment infrastructure other
                than those connections to individual residences;
             10. A data center or supercomputing center that has an aver-
                 age constant draw of at least one (1) megawatt of electric-
                 ity;
             11. A commercial airport, trucking terminal, or other
                 freight transportation facility including a railroad
                 switching yard, railroad facility, or railroad track that is
                 fenced pursuant to chapter 12, title 62, Idaho Code;
12. Any reservoir that supplies water for industrial or muni-
cipal supplies or irrigation for multiple users or an ir-
rigation district or any dam connected to such reservoir;
13. A water intake structure, water treatment facility,
wastewater treatment plant, or pump station; or
14. A navigational antenna used by the federal aviation ad-
ministration; or
(iii) Any facility included in subparagraph (i) or (ii) of this
paragraph that is lawfully permitted and under construction;
(b) "Impedes" means:
(i) To block the operation of or prevent legal access to a crit-
ical infrastructure facility or the construction of a permitted
critical infrastructure facility; or
(ii) To damage, destroy, deface, or tamper with the equipment of
a critical infrastructure facility or a permitted critical infra-
structure facility; and
(c) "Organization" means a partnership, corporation, joint stock com-
pany, or any other association or entity, public or private, other than
an individual.

SECTION 2. That Chapter 70, Title 18, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 18-7046, Idaho Code, and to read as follows:

18-7046. CRITICAL INFRASTRUCTURE TRESPASS. (1) A person is guilty of
critical infrastructure trespass if he enters or remains on or in a crit-
ical infrastructure facility or the construction site of a permitted critical
infrastructure facility knowing he is not authorized to do so or after being
notified to depart or not to trespass. For purposes of this section, notice
is given by:
(a) Personal communication to the person by the owner or occupant, or
his agent, or by a peace officer;
(b) Posting of signs reasonably likely to come to the attention of in-
truders; or
(c) The presence of fencing or other physical barrier designed to ex-
clude intruders.
(2) Critical infrastructure trespass shall be punished as criminal
trespass in accordance with the provisions of section 18-7008(3)(a), Idaho
Code.
(3) No person shall be liable for a violation of subsection (1) of this
section if that person:
(a) Owns or legally occupies the land upon which the facility is lo-
cated and is engaged in conduct not inconsistent with the operation of
the critical infrastructure facility or that is authorized by an agree-
ment; or
(b) Is lawfully engaged in any regulatory or legal process to which the
critical infrastructure facility is subject.
(4) "Critical infrastructure facility" is as defined in section
18-7045(7)(a), Idaho Code.