

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 519

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

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 FOR THE CRIME OF CRITICAL INFRASTRUCTURE TRESPASS, TO PROVIDE PENALTIES, TO PROVIDE EXCEPTIONS, TO AUTHORIZE THE ATTORNEY GENERAL TO PROSECUTE CERTAIN PERSONS, AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.

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. CRITICAL INFRASTRUCTURE -- IMPEDING -- TRESPASSING.

(1) (a) A person is guilty of impeding critical infrastructure if the person knowingly and intentionally impedes the operations of a critical infrastructure facility in a manner not otherwise authorized by law. Impeding critical infrastructure shall be:

(i) A misdemeanor punishable by imprisonment in the county jail for no more than six (6) months, a fine of no more than ten thousand dollars (\$10,000), or both, if the impediment causes damage or economic loss, the cost of which is less than ten thousand dollars (\$10,000); or

(ii) A felony punishable by imprisonment in the state penitentiary for no more than two (2) years, a fine of no more than one hundred thousand dollars (\$100,000), or both, if the impediment causes damage or economic loss, the cost of which is ten thousand dollars (\$10,000) or more.

(b) Fines imposed pursuant to the provisions of this subsection shall meet but not exceed the cost of the damage caused or economic loss.

(2) A person is guilty of critical infrastructure trespass if the person knowingly and intentionally enters or remains in a critical infrastructure facility or a construction site of a critical infrastructure facility without permission of the owner of the property or after notice is given to depart or not to trespass. For purposes of this subsection, notice is given by:

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

(b) Posting of no trespassing or no access signs reasonably likely to come to the attention of intruders; or

(c) The presence of fencing or other physical barrier designed to exclude intruders or unauthorized individuals.

(3) The penalties for critical infrastructure trespass shall be as follows:

1 (a) Any person who pleads guilty to or is found guilty of a violation of
2 subsection (2) of this section for the first time shall be guilty of a
3 misdemeanor punishable by imprisonment in the county jail for a period
4 of no more than six (6) months, a fine not to exceed one thousand dollars
5 (\$1,000), or both; and

6 (b) Any person who pleads guilty to or is found guilty of a violation of
7 subsection (2) of this section for a second time within five (5) years
8 shall be guilty of a felony punishable by imprisonment in the state pen-
9 itentiary for a period of no more than ten (10) years, a fine not to ex-
10 ceed twenty thousand dollars (\$20,000), or both.

11 (4) If a series of impediments, damages, or losses results from a sin-
12 gular continuing course of conduct, as described pursuant to this section, a
13 single violation of subsection (1) or (2) of this section may be charged and
14 penalties imposed based on the aggregate cost of the damage or loss.

15 (5) No person shall be guilty of a violation of subsection (1) or (2) of
16 this section if such person:

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

21 (b) Is lawfully engaged in any legal or regulatory process to which the
22 critical infrastructure facility is subject; or

23 (c) Is engaged in conduct arising out of a bona fide dispute about ac-
24 cess to the land on which the facility is located. The exception pur-
25 suant to this paragraph shall only apply for a violation of subsection
26 (2) of this section.

27 (6) An individual or organization that aids, abets, solicits, com-
28 pensates, hires, conspires with, commands, or procures a person to commit
29 the crime of impeding critical infrastructure or critical infrastructure
30 trespass is subject to a fine not to exceed one hundred thousand dollars
31 (\$100,000), provided that the individual or organization acted with the
32 intent that the crime of impeding critical infrastructure or critical in-
33 frastructure trespass be completed. A critical infrastructure facility may
34 maintain a civil action against an individual or organization for damages
35 suffered as a consequence of a violation of this section, including damages
36 for lost profits, whether or not any fine is imposed pursuant to this subsec-
37 tion.

38 (7) The Idaho attorney general shall have the authority, at the attor-
39 ney general's sole discretion, to prosecute a person for a criminal viola-
40 tion of the provisions of this section if the prosecuting attorney autho-
41 rized to prosecute criminal violations of this section refuses to prosecute
42 such violations.

43 (8) Nothing in this section shall be construed to apply to public demon-
44 strations or other expressions of free speech or free association on public
45 land to the extent that such activity is protected under the constitution of
46 the United States or the constitution of the state of Idaho.

47 (9) As used in this section:

48 (a) "Critical infrastructure facility" means:

49 (i) A petroleum or alumina refinery;

- 1 (ii) An electrical power generating facility, substation,
2 switching station, electrical control center, or electric power
3 lines and associated equipment infrastructure;
4 (iii) A chemical, polymer, or rubber manufacturing facility;
5 (iv) A water intake structure, water treatment facility, wastewa-
6 ter treatment plant, or pump station;
7 (v) A natural gas compressor station;
8 (vi) A liquid natural gas terminal or storage facility;
9 (vii) Wireline and wireless telecommunications infrastructure;
10 (viii) A port, railroad switching yard, trucking terminal, or
11 other freight transportation facility;
12 (ix) A gas processing plant, including a plant used in the pro-
13 cessing, treatment, or fractionation of natural gas or natural gas
14 liquids;
15 (x) A transmission facility used by a federally licensed radio or
16 television station;
17 (xi) A steelmaking facility that uses an electric arc furnace to
18 make steel;
19 (xii) A facility identified and regulated by the United States
20 department of homeland security chemical facility anti-terrorism
21 standards (CFATS) program;
22 (xiii) A dam or hydropower facility that is regulated by the state
23 or federal government;
24 (xiv) A natural gas distribution utility facility, including but
25 not limited to pipeline interconnections, a city gate or town
26 border station, metering station, below-ground or above-ground
27 pipeline or piping and truck loading or offloading facility, a
28 natural gas storage facility, a natural gas transmission facil-
29 ity, or a natural gas utility distribution facility;
30 (xv) A crude oil or refined products storage and distribution
31 facility, including but not limited to valve sites, pipeline in-
32 terconnections, pump stations, metering stations, below-ground
33 or above-ground pipeline or piping, and truck loading or offload-
34 ing facilities;
35 (xvi) Military facilities, including national guard facilities
36 and equipment storage areas where non-military personnel are pro-
37 hibited;
38 (xvii) State and federal department of transportation facilities
39 and locations near or on roads or highways where the public is pro-
40 hibited;
41 (xviii) Any above-ground portion of an oil, gas, hazardous liq-
42 uid, or chemical pipeline, tank, or other storage facility that is
43 enclosed by a fence, other physical barrier, or is clearly marked
44 with signs prohibiting trespassing that are obviously designed to
45 exclude intruders;
46 (xix) A commercial service airport as defined by the federal avia-
47 tion administration;
48 (xx) Mining facilities, including extraction sites and refine-
49 ment facilities; and

1 (xxi) Seed and crop storage sites and facilities intended to hold
2 raw food or feed products before planting, following harvest, or
3 before processing, not including commercial food facilities gen-
4 erally open and available to the public.

5 (b) "Impede" means:

6 (i) To block the operation of or prevent legal access to a crit-
7 ical infrastructure facility or the construction of a permitted
8 critical infrastructure facility; or

9 (ii) To damage, destroy, deface, or tamper with the equipment of
10 a critical infrastructure facility or a permitted critical infra-
11 structure facility.

12 (c) "Organization" means a partnership, corporation, joint stock com-
13 pany, or any other association or entity, public or private, other than
14 an individual.

15 SECTION 2. An emergency existing therefor, which emergency is hereby
16 declared to exist, this act shall be in full force and effect on and after its
17 passage and approval.