

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 652 Session of 2017

INTRODUCED BY REGAN, MARTIN, SCARNATI, RESCHENTHALER, RAFFERTY,
YAW, HUTCHINSON, YUDICHAK, STEFANO, BARTOLOTTA, SCAVELLO,
MENSCH AND VOGEL, APRIL 25, 2017

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25,
2018

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, IN ARSON, CRIMINAL MISCHIEF AND OTHER <--
3 PROPERTY DESTRUCTION, PROVIDING FOR THE OFFENSE OF CRITICAL
4 INFRASTRUCTURE VANDALISM; AND, in burglary and other criminal
5 intrusion, further providing for the offense of criminal
6 trespass.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Section 3503(d) of Title 18 of the Pennsylvania <--~~
10 ~~Consolidated Statutes is amended and the section is amended by~~
11 ~~adding a subsection to read:~~

12 SECTION 1. TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED <--
13 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

14 § 3314. CRITICAL INFRASTRUCTURE VANDALISM.

15 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
16 CRITICAL INFRASTRUCTURE VANDALISM IF THE PERSON INTENTIONALLY OR
17 RECKLESSLY DAMAGES, DESTROYS, VANDALIZES, DEFACES OR TAMPERS

1 WITH EQUIPMENT IN A CRITICAL INFRASTRUCTURE FACILITY.

2 (B) GRADING.--CRITICAL INFRASTRUCTURE VANDALISM CONSTITUTES
3 A MISDEMEANOR OF THE THIRD DEGREE EXCEPT AS FOLLOWS:

4 (1) IF THE ACTOR INTENTIONALLY OR RECKLESSLY CAUSES
5 PECUNIARY LOSS IN EXCESS OF \$500 BUT LESS THAN \$1,000,
6 CRITICAL INFRASTRUCTURE VANDALISM CONSTITUTES A MISDEMEANOR
7 OF THE SECOND DEGREE.

8 (2) IF THE ACTOR INTENTIONALLY CAUSES PECUNIARY LOSS IN
9 EXCESS OF \$1,000 BUT LESS THAN \$5,000, CRITICAL
10 INFRASTRUCTURE VANDALISM CONSTITUTES A MISDEMEANOR OF THE
11 FIRST DEGREE.

12 (3) IF THE ACTOR INTENTIONALLY CAUSES PECUNIARY LOSS IN
13 EXCESS OF \$5,000, CRITICAL INFRASTRUCTURE VANDALISM
14 CONSTITUTES A FELONY OF THE THIRD DEGREE.

15 (C) RESTITUTION.--A PERSON CONVICTED OF VIOLATING THIS
16 SECTION SHALL, IN ADDITION TO ANY OTHER PENALTY IMPOSED, BE
17 SENTENCED TO PAY RESTITUTION TO THE OWNER OF THE PROPERTY
18 DAMAGED AS A RESULT OF THE VIOLATION. RESTITUTION SHALL BE IN AN
19 AMOUNT UP TO TRIPLE THE VALUE OF THE PROPERTY DAMAGES INCURRED
20 AS A RESULT OF THE OFFENSE. IN ORDERING RESTITUTION UNDER THIS
21 SUBSECTION, THE COURT SHALL CONSIDER AS PART OF THE AMOUNT OF
22 PROPERTY DAMAGES THE MARKET VALUE OF THE PROPERTY PRIOR TO THE
23 VIOLATION AND THE PRODUCTION, RESEARCH, TESTING, REPLACEMENT AND
24 DEVELOPMENT COSTS DIRECTLY RELATED TO THE PROPERTY.

25 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

28 "CRITICAL INFRASTRUCTURE." AS DEFINED IN SECTION 3503(D)
29 (RELATING TO CRIMINAL TRESPASS).

30 "PECUNIARY LOSS." THE TERM INCLUDES THE COST OF REPAIR OR

1 REPLACEMENT OF THE PROPERTY AFFECTED.

2 SECTION 2. SECTION 3503(D) OF TITLE 18 IS AMENDED AND THE
3 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

4 § 3503. Criminal trespass.

5 * * *

6 (b.4) Critical infrastructure facility trespasser.--

7 (1) A person commits an offense if the person does any
8 of the following:

9 (i) Enters or attempts to enter property containing <--
10 a critical infrastructure facility, knowing that the
11 person is not licensed or does not have the permission of
12 the owner or lawful occupant of the property to do so.

13 (ii) (I) Enters property containing a critical <--
14 infrastructure facility with the intent to willfully
15 damage, destroy, vandalize, deface, tamper with equipment
16 or impede or inhibit operations of the facility.

17 (iii) Remains in a critical infrastructure facility <--
18 and defies an order to leave that has been communicated
19 to the person by the owner of the property or other
20 lawful occupant thereof.

21 (iv) (II) Conspires with another person to commit a <--
22 prohibited act under subparagraph (i), (ii) or (iii). <--

23 (2) It is a defense to prosecution under paragraph (1) <--

24 (i) that:

25 (i) entry is made by an emergency services provider
26 in response to a condition within the critical
27 infrastructure facility that the emergency services
28 provider reasonably believes to be a serious threat to
29 public health or safety as necessitating immediate entry
30 to the critical infrastructure facility; or

1 ~~(ii) entry is made under exigent circumstances by a~~
2 ~~law enforcement officer to:~~

3 ~~(A) pursue and apprehend a suspect of criminal~~
4 ~~conduct reasonably believed by the officer to be~~
5 ~~present within the critical infrastructure facility;~~

6 ~~or~~

7 ~~(B) prevent the destruction of evidence of~~
8 ~~criminal conduct reasonably believed by the officer~~
9 ~~to be located within the critical infrastructure~~
10 ~~facility.~~

11 ~~(3) A first offense under this subsection shall be~~
12 ~~graded as follows:~~

13 ~~(i) Except as provided in subparagraph (ii), an~~
14 ~~offense under paragraph (1) (i) constitutes a felony of~~
15 ~~the third degree and is punishable by imprisonment for a~~
16 ~~term of not more than one year and a fine of not less~~
17 ~~than \$5,000.~~

18 ~~(ii) An offense under paragraph (1) (i) by an~~
19 ~~individual under 18 years of age constitutes a~~
20 ~~misdemeanor of the third degree.~~

21 ~~(iii) Except as provided in subparagraph (iv), an~~
22 ~~offense under paragraph (1) (ii), (iii) or (iv)~~
23 ~~constitutes a felony of the second degree and is~~
24 ~~punishable by imprisonment for a term of not more than~~
25 ~~one year and a fine of not less than \$5,000.~~

26 ~~(iv) An offense under paragraph (1) (ii), (iii) or~~
27 ~~(iv) by an individual under 18 years of age constitutes a~~
28 ~~misdemeanor of the second degree.~~

29 ~~(4) A second or subsequent offense under this subsection~~
30 ~~shall be graded as follows:~~

1 ~~(i) Except as provided in subparagraph (ii), an~~
2 ~~offense under paragraph (1)(i) constitutes a felony of~~
3 ~~the second degree and is punishable by imprisonment for a~~
4 ~~term of not more than one year and a fine of not less~~
5 ~~than \$5,000.~~

6 ~~(ii) An offense under paragraph (1)(i) by an~~
7 ~~individual under 18 years of age constitutes a~~
8 ~~misdemeanor of the second degree.~~

9 ~~(iii) Except as provided in subparagraph (iv), an~~
10 ~~offense under paragraph (1)(ii), (iii) or (iv)~~
11 ~~constitutes a felony of the first degree and is~~
12 ~~punishable by imprisonment for a term of not more than~~
13 ~~two years and a fine of not less than \$10,000.~~

14 ~~(iv) An offense under paragraph (1)(ii), (iii) or~~
15 ~~(iv) by an individual under 18 years of age constitutes a~~
16 ~~misdemeanor of the first degree.~~

17 (2) GRADING IS AS FOLLOWS: <--

18 (I) A FIRST OFFENSE UNDER PARAGRAPH (1) CONSTITUTES
19 A FELONY OF THE SECOND DEGREE. A PERSON CONVICTED UNDER
20 THIS SUBPARAGRAPH SHALL BE SENTENCED TO PAY A FINE OF NOT
21 LESS THAN \$5,000 NOR MORE THAN \$20,000.

22 (II) A SECOND OFFENSE UNDER PARAGRAPH (1)
23 CONSTITUTES A FELONY OF THE FIRST DEGREE. A PERSON
24 CONVICTED UNDER THIS SUBPARAGRAPH SHALL BE SENTENCED TO
25 PAY A FINE OF NOT LESS THAN \$5,000 NOR MORE THAN \$20,000.

26 * * *

27 (d) [Definition.--As used in this section, the term "school
28 grounds" means any building of or grounds of any elementary or
29 secondary publicly funded educational institution, any
30 elementary or secondary private school licensed by the

1 Department of Education, any elementary or secondary parochial
2 school, any certified day-care center or any licensed preschool
3 program.] Definitions.--As used in this section, the following

4 words and phrases shall have the meanings given to them in this
5 subsection unless the context clearly indicates otherwise:

6 "Critical infrastructure facility." Any of the following,
7 whether constructed or under construction, if completely
8 enclosed by a fence or other physical barrier that is obviously
9 designated to exclude intruders or if clearly marked with a sign
10 or signs posted on the property that are reasonably likely to
11 come to the attention of intruders and indicate that entry is
12 forbidden without site authorization if notice requirements are
13 not necessary during obvious and apparent construction or for a
14 pipeline to the extent that it is marked by a pipeline marker:

15 (1) A petroleum or alumina refinery.

16 (2) An electrical power generating facility, substation,
17 switching station, electrical control center or electrical
18 power lines and associated equipment infrastructure.

19 (3) A chemical, polymer or rubber manufacturing
20 facility.

21 (4) A water intake structure, water treatment and
22 distribution infrastructure or wastewater treatment and
23 collection infrastructure.

24 (5) A natural gas pipeline compressor station or a
25 liquids pipeline pumping station.

26 (6) A liquid natural gas terminal or storage facility.

27 (7) A telecommunication central switching office, remote
28 terminal or any other equipment in a secure enclosure used to
29 provide telecommunications services.

30 (8) Wireless and wireline telecommunications

1 infrastructure, including cell towers, small wireless
2 facilities, microwave, poles and lines, including copper and
3 fiber optic lines and underground conduit for
4 telecommunications services.

5 (9) A port, railroad switching yard, railroad tracks, OR <--
6 trucking terminal or other freight transportation facility. <--

7 (10) A gas processing plant, including a plant used in
8 the processing, treatment or fractionation of natural gas or
9 natural gas liquids.

10 (11) A transmission facility used by a federally
11 licensed radio or television station.

12 (12) A steelmaking facility that uses an electric arc
13 furnace to make steel.

14 (13) A facility identified and regulated by the
15 Department of Homeland Security Chemical Facility Anti-
16 Terrorism Standards (CFATS) program.

17 (14) A dam that is regulated by the Federal or State
18 government.

19 (15) A natural gas transmission or distribution utility
20 facility, including, but not limited to, pipeline
21 interconnection, a city gate or town border station, metering
22 station, aboveground piping, a regulator station and a
23 natural gas storage facility.

24 (16) A crude oil or refined products storage and
25 distribution facility, including, but not limited to, a valve
26 site, pipeline interconnection, pump station, metering
27 station, belowground or aboveground pipeline or piping and
28 truck loading or offloading facility.

29 (17) A natural gas, oil, gas, hazardous liquid or
30 chemical pipeline, tank or railroad facility or other related

1 storage facility.

2 (18) Oil and gas production facilities, including, but
3 not limited to, well sites, separation and dehydration
4 facilities, produced storage and meter stations.

5 (19) Pipelines used to transport natural gas, oil or
6 refined products, whether buried or above ground.

7 (20) Equipment and machinery, regardless of whether <--
8 stored on location or at a storage yard, to the extent that <--
9 it is used to construct, MAINTAIN OR OPERATE a critical <--
10 infrastructure facility.

11 (21) An energy facility as defined in 18 U.S.C. §
12 1366(c) (relating to destruction of an energy facility).

13 "Emergency services provider." An emergency medical
14 responder, emergency medical technician, advanced emergency
15 medical technician or a paramedic as defined in 35 Pa.C.S. §
16 8103 (relating to definitions).

17 "School grounds." The building or grounds of an elementary
18 or secondary publicly funded educational institution, an
19 elementary or secondary private school licensed by the
20 Department of Education, an elementary or secondary parochial
21 school, a certified day-care center or a licensed preschool
22 program.

23 Section 2 3. This act shall take effect in 60 days. <--