

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 148

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO IMPEDING CRITICAL INFRASTRUCTURE; AMENDING CHAPTER 70, TITLE
2 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7046, IDAHO CODE, TO
3 PROVIDE FOR THE CRIME OF IMPEDING CRITICAL INFRASTRUCTURE, TO PROVIDE
4 PENALTIES, TO PROVIDE THAT AGGREGATE DAMAGE MAY BE A VIOLATION, TO PRO-
5 VIDE EXCEPTIONS, TO AUTHORIZE THE ATTORNEY GENERAL TO PROSECUTE CERTAIN
6 PERSONS, AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY AND PROVIDING
7 AN EFFECTIVE DATE.
8

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

10 SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 18-7046, Idaho Code, and to read as follows:

13 18-7046. IMPEDING CRITICAL INFRASTRUCTURE. (1) A person is guilty of
14 impeding critical infrastructure if the person knowingly and willfully im-
15 pedes the operations of a critical infrastructure facility or a construction
16 site of a critical infrastructure facility in a manner not otherwise autho-
17 rized by law.

18 (2) (a) Impeding critical infrastructure shall be:

19 (i) A misdemeanor punishable by imprisonment for not more than
20 six (6) months, a fine of not more than one thousand dollars
21 (\$1,000), or both, if the impediment causes damage or economic
22 loss, the cost of which is less than one thousand dollars (\$1,000);
23 or

24 (ii) A felony punishable by imprisonment in the state peniten-
25 tary for not more than ten (10) years, a fine not to exceed the
26 cost of damages or economic loss, or both, if the impediment causes
27 damage or economic loss, the cost of which is one thousand dollars
28 (\$1,000) or more.

29 (b) No fine imposed under the provisions of this subsection shall ex-
30 ceed the cost of the damage caused or the economic loss.

31 (3) If a series of damages or losses results from a single continuing
32 course of conduct, a single violation of this section may be charged and
33 penalties imposed based on the aggregate cost of the damage or loss.

34 (4) An individual or organization that aids, abets, solicits, compen-
35 sates, hires, conspires with, commands, or procures a person to commit the
36 crime of impeding critical infrastructure is subject to a fine not to exceed
37 one hundred thousand dollars (\$100,000), provided that the individual or or-
38 ganization acted with the intent that the crime of impeding critical infra-
39 structure be completed. A critical infrastructure facility may maintain a
40 civil action against an individual or organization for damages suffered as a
41 consequence of a violation of the provisions of this subsection, including

1 damages for lost profits, whether or not any fine is imposed pursuant to the
2 provisions of this subsection.

3 (5) Nothing in this section shall be construed to apply to engaging in
4 lawful conduct such as participating in a public demonstration to the extent
5 that such activity is protected under the United States constitution or the
6 constitution of the state of Idaho.

7 (6) No person shall be liable for impeding critical infrastructure if
8 the person:

9 (a) Owns or legally occupies the land upon which the critical infra-
10 structure facility is located and is engaged in conduct not inconsis-
11 tent with the operation of the critical infrastructure facility or that
12 is authorized by an agreement;

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

15 (c) Is engaged in conduct arising out of a bona fide dispute about ac-
16 cess to land.

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

22 (8) As used in this section:

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

31 (i) Chemical manufacturing, storage, use, and transportation;

32 (ii) Commercial facilities with open public access where the gen-
33 eral public can move freely without the deterrent of highly visi-
34 ble security barriers;

35 (iii) Communications;

36 (iv) Critical manufacturing;

37 (v) Dams;

38 (vi) Defense industrial bases;

39 (vii) Emergency services;

40 (viii) Energy;

41 (ix) Financial services;

42 (x) Food and agriculture;

43 (xi) Government facilities;

44 (xii) Health care and public health;

45 (xiii) Information technology;

46 (xiv) Mineral exploration, mining operations, and mineral pro-
47 cessing;

48 (xv) Nuclear reactors, materials, and waste;

49 (xvi) Transportation systems; and

50 (xvii) Water and wastewater.

- 1 (b) "Impedes" means:
2 (i) To block the operation of or prevent legal access to a crit-
3 ical infrastructure facility or the construction of a permitted
4 critical infrastructure facility; or
5 (ii) To damage, destroy, deface, or tamper with the equipment of
6 a critical infrastructure facility or a permitted critical infra-
7 structure facility.
8 (c) "Organization" means a partnership, corporation, joint stock com-
9 pany, or any other association or entity, public or private, other than
10 an individual.

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