

IN THE SENATE

SENATE BILL NO. 1090

BY JUDICIARY AND RULES 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 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-

1 tent that such activity is protected under the United States or the Idaho
2 constitution.

3 (6) No person shall be liable for impeding critical infrastructure if
4 the person:

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

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

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

13 (7) As used in this section:

14 (a) "Critical infrastructure facility" means:

15 (i) Any portion of an oil, gas, hazardous liquid or chemical
16 pipeline, or tank that is buried, enclosed by a fence, enclosed by
17 a physical barrier, or is clearly marked with signs prohibiting
18 trespassing that are obviously designed to exclude intruders; or

19 (ii) One (1) of the following, if completely enclosed by a fence or
20 other physical barrier that is obviously designed to exclude in-
21 truders, or if clearly marked with a sign or signs that are reason-
22 ably likely to come to the attention of intruders and indicate that
23 entry is forbidden without authorization:

24 1. A chemical or polymer manufacturing facility;

25 2. A telecommunications central switching office;

26 3. Wireless or other telecommunications infrastructure,
27 including cell towers, microwave towers, telephone poles
28 and lines, or fiber-optic lines, other than those connecting
29 to individual residences;

30 4. A transmission facility used by a federally licensed ra-
31 dio or television station or a governmental law enforcement
32 or emergency services radio system;

33 5. A liquid natural gas terminal or storage facility;

34 6. A natural gas compressor station;

35 7. A natural gas distribution utility facility, including
36 transmission facilities, pipeline interconnections, a city
37 gate or town border station, metering stations, piping, a
38 regulator station, or a natural gas storage facility;

39 8. An aboveground or underground mining facility;

40 9. An electrical power generating facility, substation,
41 switching station, electrical control center, or electric
42 power lines and associated equipment infrastructure other
43 than those connections to individual residences;

44 10. A data center or supercomputing center that has an aver-
45 age constant draw of at least one (1) megawatt of electric-
46 ity;

47 11. A commercial airport, trucking terminal, or other
48 freight transportation facility including a railroad
49 switching yard, railroad facility, or railroad track that is
50 fenced pursuant to chapter 12, title 62, Idaho Code;

12. Any reservoir that supplies water for industrial or municipal supplies or irrigation for multiple users or an irrigation 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 administration; 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 critical 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 infrastructure facility; and

(c) "Organization" means a partnership, corporation, joint stock company, 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 designated 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 critical 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 intruders; or

(c) The presence of fencing or other physical barrier designed to exclude 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 located and is engaged in conduct not inconsistent with the operation of the critical infrastructure facility or that is authorized by an agreement; 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.