



AN ACT PROVIDING FOR PROTECTION OF CRITICAL INFRASTRUCTURE; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR PERSONS AND ENTITIES TRESPASSING ON OR DAMAGING CRITICAL INFRASTRUCTURE FACILITIES; EXEMPTING CERTAIN ACTIVITIES; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [sections 1 through 4]:

(1) "Critical infrastructure" means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of the systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(2) "Critical infrastructure facility" means:

(a) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that indicate that entry is forbidden without site authorization:

- (i) a petroleum or alumina refinery;
- (ii) an electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment infrastructure;
- (iii) a chemical, polymer, or rubber manufacturing facility;
- (iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (v) a natural gas compressor station, including but not limited to pipeline interconnections, a city gate or town border station, a metering station, aboveground piping, and a regulation station and natural gas storage facility;
- (vi) a liquid natural gas terminal or storage facility;
- (vii) a telecommunications central switching office;

- (viii) wireless telecommunications infrastructure;
- (ix) a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;
- (x) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (xi) a transmission facility used by a federally licensed radio or television station;
- (xii) a steelmaking facility that uses an electric arc furnace to make steel;
- (xiii) a facility identified and regulated by the United States department of homeland security Chemical Facility Anti-Terrorism Standards program;
- (xiv) a dam that is regulated by the state, the federal government, or a tribal government;
- (xv) a natural gas distribution utility facility, including but not limited to pipeline interconnections, a city gate or town border station, a metering station, aboveground piping, a regular station, and a natural gas storage facility;
- (xvi) aboveground oil, gas, hazardous liquid, and chemical pipelines;
- (xvii) aboveground portions of an oil or natural gas well and associated production facilities;
- (xviii) aboveground portions of a mineral or metal mining facility;
- (xix) correctional facilities;
- (xx) cable television infrastructure, including headends, poles, cable television lines, coaxial and fiber optic lines, and other equipment attached to cable television lines;
- (xxi) military installations, including but not limited to training areas and armories; and
- (xxii) a crude oil, inclusive of Y-grade or natural gas liquids, or a refined products storage and distribution facility, including but not limited to a value site, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and truck loading or offloading facility;
- (b) a facility for the construction of a location listed in subsection (2)(a); or
- (c) a below or aboveground portion of an oil, gas, hazardous liquid, or chemical transmission or distribution pipeline, tank, railroad facility, or other facility that is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that indicate that entry is forbidden without site authorization.

(3) "Organization" means a group of people, structured in a specific way to achieve a series of shared goals.

Section 2. Criminal penalties. (1) Except as provided in [section 4], a person who willfully and knowingly trespasses on property containing a critical infrastructure facility:

(a) that is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders with intent to willfully damage, destroy, vandalize, deface, tamper with equipment, or materially impede or inhibit operations of the facility shall, on conviction, be guilty of a felony punishable by a fine of not more than \$4,500 or by imprisonment for not more than 18 months or both; and

(b) that is clearly marked with a sign or signs that are posted on the property that indicate that entry is forbidden without site authorization with intent to willfully damage, destroy, vandalize, deface, tamper with equipment, or materially impede or inhibit operations of the facility shall, on conviction, be guilty of a felony punishable by a fine of not more than \$4,500 or by imprisonment for not more than 18 months or both.

(2) A person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility:

(a) causing less than \$1,500 in damages shall, on conviction, be guilty of a misdemeanor and may be incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, and must be ordered to make restitution in an amount and manner to be set by the court; and

(b) causing damages greater than \$1,500 shall, on conviction, be guilty of a felony punishable by a fine of not more than \$150,000 or by imprisonment for not more than 30 years, or both.

(3) An organization found to be in a conspiracy, as the term is used in 45-4-102, with persons who are found to have committed any of the crimes provided in subsection (1) or (2) may be punished by a fine up to 10 times the amount of the fine provided for the appropriate crime.

Section 3. Civil penalties. (1) A person who trespasses in a critical infrastructure facility that is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or that is clearly marked with a sign or signs that are posted on the property that indicate that entry is forbidden without authorization, and enters with intent to willfully damage, destroy, vandalize, deface, tamper with equipment, or

impede or inhibit operations of the facility may be held liable for damages to personal or real property while trespassing, including damages and expenses from network performance or outage issues proximately caused by the trespass.

(2) A person or entity that directs a person to trespass as described in subsection (1), compensates, provides consideration to, or remunerates a person for trespassing as described in subsection (1) may also be held vicariously liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

Section 4. Exempt activities. Nothing in [sections 1 through 4] may be construed to limit legally permissible activity under 29 U.S.C. 151 through 169, as those sections existed on December 23, 2020.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 82, and the provisions of Title 82 apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 481, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 481

INTRODUCED BY S. GUNDERSON

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