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Sub. S. B. No. 33

Senator Hoagland

Cosponsors: Senators Peterson, Coley, Terhar, Wilson, Huffman, M., Rulli, Brenner, Burke, Eklund, Gavarone, Hackett, Huffman, S., McColley, O'Brien, Roegner, Schuring, Uecker Representatives Carfagna, Hillyer

A BILL

To amend sections 2909.07, 2909.10, 2911.21, 1
2911.211, and 2917.32 and to enact sections 2
2307.67 and 2923.04 of the Revised Code to 3
modify certain criminal offenses with respect to 4
critical infrastructure facilities and to impose 5
fines and civil liability for damage to a 6
critical infrastructure facility. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2909.07, 2909.10, 2911.21, 8
2911.211, and 2917.32 be amended and sections 2307.67 and 9
2923.04 of the Revised Code be enacted to read as follows: 10

Sec. 2307.67. (A) As used in this section: 11

(1) "Compensation" means money, thing of value, or 12
financial benefit. "Compensation" does not include bail, fines, 13
or court costs. 14

(2) "Critical infrastructure facility" has the same 15
meaning as in section 2911.21 of the Revised Code. 16

(3) "Organization" has the same meaning as in section 2901.23 of the Revised Code. 17
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(B) An owner or operator of a critical infrastructure facility may elect to commence a civil action under division (A) of section 2307.60 or section 2307.61 of the Revised Code or under this section against any person who willfully causes damage to the critical infrastructure facility. The plaintiff may recover compensatory damages equal to the replacement value of the property that was damaged. The plaintiff also may recover reasonable attorney's fees, court costs, and other reasonable expenses incurred in maintaining the civil action under this section. 19
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(C) A person or organization may only be held vicariously liable for a judgment the plaintiff obtains against the person who damaged the critical infrastructure facility if the person or organization did either of the following: 29
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(1) Directed, authorized, facilitated, or encouraged the person to cause damage to the critical infrastructure facility; 33
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(2) Provided compensation to the person for damaging the critical infrastructure facility. 35
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(D) In a civil action to recover damages under this section, the trier of fact may determine that the defendant willfully caused damage to the critical infrastructure facility, regardless of whether the defendant has been charged with any related criminal offense, has pleaded guilty to or been convicted of a criminal offense, or has been adjudicated a delinquent child in connection with the property damage. 37
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(E) This section does not affect any criminal prosecution or any action to obtain a delinquent child adjudication in 44
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connection with the property damage. 46

Sec. 2909.07. (A) No person shall: 47

(1) Without privilege to do so, knowingly move, deface, 48
damage, destroy, or otherwise improperly tamper with either of 49
the following: 50

(a) The property of another; 51

(b) One's own residential real property with the purpose 52
to decrease the value of or enjoyment of the residential real 53
property, if both of the following apply: 54

(i) The residential real property is subject to a 55
mortgage. 56

(ii) The person has been served with a summons and 57
complaint in a pending residential mortgage loan foreclosure 58
action relating to that real property. As used in this division, 59
"pending" includes the time between judgment entry and 60
confirmation of sale. 61

(2) With purpose to interfere with the use or enjoyment of 62
property of another, employ a tear gas device, stink bomb, smoke 63
generator, or other device releasing a substance that is harmful 64
or offensive to persons exposed or that tends to cause public 65
alarm; 66

(3) Without privilege to do so, knowingly move, deface, 67
damage, destroy, or otherwise improperly tamper with a bench 68
mark, triangulation station, boundary marker, or other survey 69
station, monument, or marker; 70

(4) Without privilege to do so, knowingly move, deface, 71
damage, destroy, or otherwise improperly tamper with any safety 72
device, the property of another, or the property of the offender 73

when required or placed for the safety of others, so as to 74
destroy or diminish its effectiveness or availability for its 75
intended purpose; 76

(5) With purpose to interfere with the use or enjoyment of 77
the property of another, set a fire on the land of another or 78
place personal property that has been set on fire on the land of 79
another, which fire or personal property is outside and apart 80
from any building, other structure, or personal property that is 81
on that land; 82

(6) Without privilege to do so, and with intent to impair 83
the functioning of any computer, computer system, computer 84
network, computer software, or computer program, knowingly do 85
any of the following: 86

(a) In any manner or by any means, including, but not 87
limited to, computer hacking, alter, damage, destroy, or modify 88
a computer, computer system, computer network, computer 89
software, or computer program or data contained in a computer, 90
computer system, computer network, computer software, or 91
computer program; 92

(b) Introduce a computer contaminant into a computer, 93
computer system, computer network, computer software, or 94
computer program. 95

(7) Without privilege to do so, knowingly destroy or 96
improperly tamper with a critical infrastructure facility. 97

(B) As used in this section: 98

(1) "safety-Safety device" means any fire extinguisher, 99
fire hose, or fire axe, or any fire escape, emergency exit, or 100
emergency escape equipment, or any life line, life-saving ring, 101
life preserver, or life boat or raft, or any alarm, light, 102

flare, signal, sign, or notice intended to warn of danger or 103
emergency, or intended for other safety purposes, or any guard 104
railing or safety barricade, or any traffic sign or signal, or 105
any railroad grade crossing sign, signal, or gate, or any first 106
aid or survival equipment, or any other device, apparatus, or 107
equipment intended for protecting or preserving the safety of 108
persons or property. 109

(2) "Critical infrastructure facility" has the same 110
meaning as in section 2911.21 of the Revised Code. 111

(3) "Improperly tamper" means to change the physical 112
location or the physical condition of the property. 113

(C) (1) Whoever violates this section is guilty of criminal 114
mischief, and shall be punished as provided in division (C) (2), 115
~~or (3)~~, or (4) of this section. 116

(2) Except as otherwise provided in this division, 117
criminal mischief committed in violation of division (A) (1), 118
(2), (3), (4), or (5) of this section is a misdemeanor of the 119
third degree. Except as otherwise provided in this division, if 120
the violation of division (A) (1), (2), (3), (4), or (5) of this 121
section creates a risk of physical harm to any person, criminal 122
mischief committed in violation of division (A) (1), (2), (3), 123
(4), or (5) of this section is a misdemeanor of the first 124
degree. If the property involved in the violation of division 125
(A) (1), (2), (3), (4), or (5) of this section is an aircraft, an 126
aircraft engine, propeller, appliance, spare part, fuel, 127
lubricant, hydraulic fluid, any other equipment, implement, or 128
material used or intended to be used in the operation of an 129
aircraft, or any cargo carried or intended to be carried in an 130
aircraft, criminal mischief committed in violation of division 131
(A) (1), (2), (3), (4), or (5) of this section is one of the 132

following:	133
(a) If the violation creates a risk of physical harm to	134
any person, except as otherwise provided in division (C) (2) (b)	135
of this section, criminal mischief committed in violation of	136
division (A) (1), (2), (3), (4), or (5) of this section is a	137
felony of the fifth degree.	138
(b) If the violation creates a substantial risk of	139
physical harm to any person or if the property involved in a	140
violation of this section is an occupied aircraft, criminal	141
mischief committed in violation of division (A) (1), (2), (3),	142
(4), or (5) of this section is a felony of the fourth degree.	143
(3) Except as otherwise provided in this division,	144
criminal mischief committed in violation of division (A) (6) of	145
this section is a misdemeanor of the first degree. Except as	146
otherwise provided in this division, if the value of the	147
computer, computer system, computer network, computer software,	148
computer program, or data involved in the violation of division	149
(A) (6) of this section or the loss to the victim resulting from	150
the violation is one thousand dollars or more and less than ten	151
thousand dollars, or if the computer, computer system, computer	152
network, computer software, computer program, or data involved	153
in the violation of division (A) (6) of this section is used or	154
intended to be used in the operation of an aircraft and the	155
violation creates a risk of physical harm to any person,	156
criminal mischief committed in violation of division (A) (6) of	157
this section is a felony of the fifth degree. If the value of	158
the computer, computer system, computer network, computer	159
software, computer program, or data involved in the violation of	160
division (A) (6) of this section or the loss to the victim	161
resulting from the violation is ten thousand dollars or more, or	162

if the computer, computer system, computer network, computer 163
software, computer program, or data involved in the violation of 164
division (A) (6) of this section is used or intended to be used 165
in the operation of an aircraft and the violation creates a 166
substantial risk of physical harm to any person or the aircraft 167
in question is an occupied aircraft, criminal mischief committed 168
in violation of division (A) (6) of this section is a felony of 169
the fourth degree. 170

(4) Criminal mischief committed in violation of division 171
(A) (7) of this section is a felony of the third degree. 172

Sec. 2909.10. (A) No person shall knowingly, and by any 173
means, drop or throw any object at, onto, or in the path of, any 174
railroad rail, railroad track, locomotive, engine, railroad car, 175
or other vehicle of a railroad company while such vehicle is on 176
a railroad track. 177

(B) No person, without privilege to do so, shall climb 178
upon or into any locomotive, engine, railroad car, or other 179
vehicle of a railroad company when it is on a railroad track. 180

(C) No person, without privilege to do so, shall disrupt, 181
delay, or prevent the operation of any train or other vehicle of 182
a railroad company while such vehicle is on a railroad track. 183

~~(D) No person, without privilege to do so, shall knowingly 184~~
~~enter or remain on the land or premises of a railroad company. 185~~

~~(E) Whoever violates division (A) of this section is 186~~
guilty of railroad vandalism. Whoever violates division (B) of 187
this section is guilty of criminal trespass on a locomotive, 188
engine, railroad car, or other railroad vehicle. Whoever 189
violates division (C) of this section is guilty of interference 190
with the operation of a train. 191

Except as otherwise provided in this division, railroad 192
vandalism; criminal trespass on a locomotive, engine, railroad 193
car, or other railroad vehicle; and interference with the 194
operation of a train each is a misdemeanor of the first degree. 195
Except as otherwise provided in this division, if the violation 196
of division (A), (B), or (C) of this section causes serious 197
physical harm to property or creates a substantial risk of 198
physical harm to any person, the violation is a felony of the 199
fourth degree. Except as otherwise provided in this division, if 200
the violation of division (A), (B), or (C) of this section 201
causes physical harm to any person, the violation is a felony of 202
the third degree. If the violation of division (A), (B), or (C) 203
of this section causes serious physical harm to any person, the 204
violation is a felony of the second degree. 205

~~(F) Whoever violates division (D) of this section is 206
guilty of criminal trespass on the land or premises of a 207
railroad company, a misdemeanor of the fourth degree. 208~~

Sec. 2911.21. (A) No person, without privilege to do so, 209
shall do any of the following: 210

(1) Knowingly enter or remain on the land or premises of 211
another; 212

(2) Knowingly enter or remain on the land or premises of 213
another, the use of which is lawfully restricted to certain 214
persons, purposes, modes, or hours, when the offender knows the 215
offender is in violation of any such restriction or is reckless 216
in that regard; 217

(3) Recklessly enter or remain on the land or premises of 218
another, as to which notice against unauthorized access or 219
presence is given by actual communication to the offender, or in 220

a manner prescribed by law, or by posting in a manner reasonably
calculated to come to the attention of potential intruders, or
by fencing or other enclosure manifestly designed to restrict
access;

(4) Being on the land or premises of another, negligently
fail or refuse to leave upon being notified by signage posted in
a conspicuous place or otherwise being notified to do so by the
owner or occupant, or the agent or servant of either;

(5) Knowingly enter or remain on a critical infrastructure
facility.

(B) It is no defense to a charge under this section that
the land or premises involved was owned, controlled, or in
custody of a public agency.

(C) It is no defense to a charge under this section that
the offender was authorized to enter or remain on the land or
premises involved, when such authorization was secured by
deception.

(D) (1) Whoever violates this section is guilty of criminal
trespass. Criminal trespass in violation of division (A) (1),
(2), (3), or (4) of this section is a misdemeanor of the fourth
degree. Criminal trespass in violation of division (A) (5) of
this section is a misdemeanor of the first degree.

(2) Notwithstanding section 2929.28 of the Revised Code,
if the person, in committing the violation of this section, used
a snowmobile, off-highway motorcycle, or all-purpose vehicle,
the court shall impose a fine of two times the usual amount
imposed for the violation.

(3) If an offender previously has been convicted of or
pleaded guilty to two or more violations of this section or a

substantially equivalent municipal ordinance, and the offender, 250
in committing each violation, used a snowmobile, off-highway 251
motorcycle, or all-purpose vehicle, the court, in addition to or 252
independent of all other penalties imposed for the violation, 253
may impound the certificate of registration of that snowmobile 254
or off-highway motorcycle or the certificate of registration and 255
license plate of that all-purpose vehicle for not less than 256
sixty days. In such a case, section 4519.47 of the Revised Code 257
applies. 258

(E) Notwithstanding any provision of the Revised Code, if 259
the offender, in committing the violation of this section, used 260
an all-purpose vehicle, the clerk of the court shall pay the 261
fine imposed pursuant to this section to the state recreational 262
vehicle fund created by section 4519.11 of the Revised Code. 263

(F) As used in this section: 264

(1) "All-purpose vehicle," "off-highway motorcycle," and 265
"snowmobile" have the same meanings as in section 4519.01 of the 266
Revised Code. 267

(2) "Land or premises" includes any land, building, 268
structure, or place belonging to, controlled by, or in custody 269
of another, and any separate enclosure or room, or portion 270
thereof. 271

(3) "Production operation," "well," and "well pad" have 272
the same meanings as in section 1509.01 of the Revised Code. 273

(4) "Critical infrastructure facility" means: 274

(a) One of the following, if completely enclosed by a 275
fence or other physical barrier that is obviously designed to 276
exclude intruders, or if clearly marked with signs that are 277
reasonably likely to come to the attention of potential 278

<u>intruders and that indicate entry is forbidden without site</u>	279
<u>authorization:</u>	280
<u>(i) A petroleum or alumina refinery;</u>	281
<u>(ii) An electric generating facility, substation,</u>	282
<u>switching station, electrical control center, or electric</u>	283
<u>transmission and distribution lines and associated equipment;</u>	284
<u>(iii) A chemical, polymer, or rubber manufacturing</u>	285
<u>facility;</u>	286
<u>(iv) A water intake structure, water treatment facility,</u>	287
<u>waste water facility, drainage facility, water management</u>	288
<u>facility, or any similar water or sewage treatment system and</u>	289
<u>its water and sewage piping;</u>	290
<u>(v) A natural gas company facility or interstate natural</u>	291
<u>gas pipeline, including a pipeline interconnection, a natural</u>	292
<u>gas compressor station and associated facilities, city gate or</u>	293
<u>town border station, metering station, above-ground piping,</u>	294
<u>regulator station, valve site, delivery station, fabricated</u>	295
<u>assembly, or any other part of a natural gas storage facility</u>	296
<u>involved in the gathering, storage, transmission, or</u>	297
<u>distribution of gas;</u>	298
<u>(vi) A telecommunications central switching office or</u>	299
<u>remote switching facility or an equivalent network facility that</u>	300
<u>serves a similar purpose;</u>	301
<u>(vii) Wireline or wireless telecommunications</u>	302
<u>infrastructure, including telecommunications towers and</u>	303
<u>telephone poles and lines, including fiber optic lines;</u>	304
<u>(viii) A port, trucking terminal, or other freight</u>	305
<u>transportation facility;</u>	306

- (ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids; 307
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- (x) A transmission facility used by a federally licensed radio or television station; 310
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- (xi) A steel-making facility that uses an electric arc furnace to make steel; 312
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- (xii) A facility identified and regulated by the United States department of homeland security's chemical facility anti-terrorism standards program under 6 C.F.R. part 27; 314
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- (xiii) A dam that is regulated by the state or federal government; 317
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- (xiv) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility; 319
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- (xv) A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in section 1332.21 of the Revised Code. 324
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- (xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility; 329
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- (xvii) Any above-ground portion of a well, well pad, or production operation; 331
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- (xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate 333
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<u>natural gas or crude oil pipeline;</u>	335
<u>(xix) Any mining operation, including any processing</u>	336
<u>equipment, batching operation, or support facility for that</u>	337
<u>mining operation.</u>	338
<u>(b) With respect to a video service network or broadband</u>	339
<u>or wireless telecommunications infrastructure, the above-ground</u>	340
<u>portion of a facility installed in a public right-of-way on a</u>	341
<u>utility pole or in a conduit;</u>	342
<u>(c) Any railroad property;</u>	343
<u>(d) An electronic asset of any of the following:</u>	344
<u>(i) An electric light company that is a public utility</u>	345
<u>under section 4905.02 of the Revised Code;</u>	346
<u>(ii) An electric cooperative, as defined in section</u>	347
<u>4928.01 of the Revised Code;</u>	348
<u>(iii) A municipal electric utility, as defined in section</u>	349
<u>4928.01 of the Revised Code;</u>	350
<u>(iv) A natural gas company that is a public utility under</u>	351
<u>section 4905.02 of the Revised Code;</u>	352
<u>(v) A telephone company that is a public utility under</u>	353
<u>section 4905.02 of the Revised Code;</u>	354
<u>(vi) A video service provider, including a cable operator,</u>	355
<u>as those terms are defined in section 1332.21 of the Revised</u>	356
<u>Code.</u>	357
<u>(5) "Electronic asset" includes, but is not limited to,</u>	358
<u>the hardware, software, and data of a programmable electronic</u>	359
<u>device; all communications, operations, and customer data</u>	360
<u>networks; and the contents of those data networks.</u>	361

Sec. 2911.211. (A) (1) No person shall enter or remain on 362
the land or premises of another with purpose to commit on that 363
land or those premises a misdemeanor, the elements of which 364
involve causing physical harm to another person or causing 365
another person to believe that the offender will cause physical 366
harm to ~~him~~ that person. 367

(2) No person shall enter or remain on a critical 368
infrastructure facility with purpose to destroy or tamper with 369
the facility. 370

(B) Whoever violates this section is guilty of aggravated 371
trespass~~7~~. Aggravated trespass in violation of division (A) (1) 372
of this section is a misdemeanor of the first degree. Aggravated 373
trespass in violation of division (A) (2) of this section is a 374
felony of the third degree. 375

(C) As used in this section, "critical infrastructure 376
facility" has the same meaning as in section 2911.21 of the 377
Revised Code. 378

Sec. 2917.32. (A) No person shall do any of the following: 379

(1) Initiate or circulate a report or warning of an 380
alleged or impending fire, explosion, crime, or other 381
catastrophe, knowing that the report or warning is false and 382
likely to cause public inconvenience or alarm; 383

(2) Knowingly cause a false alarm of fire or other 384
emergency to be transmitted to or within any organization, 385
public or private, for dealing with emergencies involving a risk 386
of physical harm to persons or property; 387

(3) Report to any law enforcement agency an alleged 388
offense or other incident within its concern, knowing that such 389
offense did not occur; 390

(4) Initiate or circulate a report or warning of an 391
alleged or impending fire, explosion, crime, or other 392
catastrophe, knowing that the report or warning is false and 393
likely to impede the operation of a critical infrastructure 394
facility. 395

(B) This section does not apply to any person conducting 396
an authorized fire or emergency drill. 397

(C) (1) Whoever violates this section is guilty of making 398
false alarms. 399

(2) Except as otherwise provided in division (C) (3), (4), 400
(5), or (6) of this section, making false alarms is a 401
misdemeanor of the first degree. 402

(3) Except as otherwise provided in division (C) (4) of 403
this section, if a violation of this section results in economic 404
harm of one thousand dollars or more but less than seven 405
thousand five hundred dollars, making false alarms is a felony 406
of the fifth degree. 407

(4) If a violation of this section pertains to a 408
purported, threatened, or actual use of a weapon of mass 409
destruction, making false alarms is a felony of the third 410
degree. 411

(5) If a violation of this section results in economic 412
harm of seven thousand five hundred dollars or more but less 413
than one hundred fifty thousand dollars and if division (C) (4) 414
of this section does not apply, making false alarms is a felony 415
of the fourth degree. 416

(6) If a violation of this section results in economic 417
harm of one hundred fifty thousand dollars or more, making false 418
alarms is a felony of the third degree. 419

(D) (1) It is not a defense to a charge under this section 420
that pertains to a purported or threatened use of a weapon of 421
mass destruction that the offender did not possess or have the 422
ability to use a weapon of mass destruction or that what was 423
represented to be a weapon of mass destruction was not a weapon 424
of mass destruction. 425

(2) Any act that is a violation of this section and any 426
other section of the Revised Code may be prosecuted under this 427
section, the other section, or both sections. 428

(E) As used in this section, ~~"economic;~~ 429

(1) "Critical infrastructure facility" has the same 430
meaning as in section 2911.21 of the Revised Code. 431

(2) "Economic harm" and "weapon of mass destruction" have 432
the same meanings as in section 2917.31 of the Revised Code. 433

Sec. 2923.04. (A) As used in this section: 434

(1) "Compensation" means money, thing of value, or 435
financial benefit. "Compensation" does not include bail, fines, 436
or court costs. 437

(2) "Critical infrastructure facility" has the same 438
meaning as in section 2911.21 of the Revised Code. 439

(3) "Organization" has the same meaning as in section 440
2901.23 of the Revised Code. 441

(B) No organization shall knowingly direct, authorize, 442
facilitate, or encourage a person to commit any of the following 443
offenses or provide compensation to a person for committing any 444
of the following offenses: 445

(1) Criminal mischief in violation of division (A) (7) of 446

<u>section 2909.07 of the Revised Code;</u>	447
<u>(2) Criminal trespass in violation of division (A) (5) of section 2911.21 of the Revised Code;</u>	448
<u>(3) Aggravated trespass in violation of division (A) (2) of section 2911.211 of the Revised Code;</u>	449
<u>(4) Telecommunications harassment in violation of division (A) (4) of section 2917.21 of the Revised Code that involves a threat of damage to or destruction of a critical infrastructure facility;</u>	450
<u>(5) Making false alarms in violation of division (A) (4) of section 2917.32 of the Revised Code.</u>	451
<u>(C) Whoever violates this section is guilty of improper organizational involvement with a critical infrastructure facility. Notwithstanding section 2929.31 of the Revised Code, improper organizational involvement with a critical infrastructure facility shall be punished as follows:</u>	452
<u>(1) A violation of division (B) (1) of this section shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a violation of division (A) (7) of section 2909.07 of the Revised Code;</u>	453
<u>(2) A violation of division (B) (2) of this section shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a violation of division (A) (5) of section 2911.21 of the Revised Code;</u>	454
<u>(3) A violation of division (B) (3) of this section shall be punished with a fine that is ten times the maximum fine that can be imposed on an individual for a violation of division (A) (2) of section 2911.211 of the Revised Code;</u>	455
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(4) A violation of division (B) (4) of this section shall 475
be punished with a fine that is ten times the maximum fine that 476
can be imposed on an individual for a violation of division (A) 477
(4) of section 2917.21 that involves a threat of damage to or 478
destruction of a critical infrastructure facility; 479

(5) A violation of division (B) (5) of this section shall 480
be punished with a fine that is ten times the maximum fine that 481
can be imposed on an individual for a violation of division (A) 482
(4) of section 2917.32 of the Revised Code. 483

Section 2. That existing sections 2909.07, 2909.10, 484
2911.21, 2911.211, and 2917.32 of the Revised Code are hereby 485
repealed. 486