

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

(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.

(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:

(1) Directed, authorized, facilitated, or encouraged the person to cause damage to the critical infrastructure facility;

(2) Provided compensation to the person for damaging the critical infrastructure facility.

(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.

(E) This section does not affect any criminal prosecution or any action to obtain a delinquent child adjudication in connection with the property damage.

Sec. 2909.07. (A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise

improperly tamper with either of the following:

- (a) The property of another;
- (b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
 - (i) The residential real property is subject to a mortgage.
 - (ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;
- (4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;
- (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:
 - (a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - (b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.
- (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.
 - (B) As used in this section:
 - (1) "~~safety~~ Safety device" means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
 - (2) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the

Revised Code.

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

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

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (A)(1), (2), (3), (4), or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is one of the following:

(a) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (C)(2)(b) of this section, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a felony of the fifth degree.

(b) If the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a felony of the fourth degree.

(3) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(6) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division, if the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars or more and less than ten thousand dollars, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(6) of this section is a felony of the fifth degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is ten thousand dollars or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of physical harm to any person or the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(6) of this section is a felony of the fourth degree.

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

Sec. 2909.10. (A) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other

vehicle of a railroad company while such vehicle is on a railroad track.

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

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

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

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

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

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

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

- (1) Knowingly enter or remain on the land or premises of another;
- (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in 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, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, section 4519.47 of the Revised Code applies.

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

(F) As used in this section:

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

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

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

(4) "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 signs that are reasonably likely to come to the attention of potential intruders and that indicate 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;

(iii) A chemical, polymer, or rubber manufacturing facility;

(iv) A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;

(v) A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;

(vi) A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;

(vii) Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;

- (viii) A port, trucking terminal, or other freight transportation facility;
- (ix) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
- (x) A transmission facility used by a federally licensed radio or television station;
- (xi) A steel-making facility that uses an electric arc furnace to make steel;
- (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;
- (xiii) A dam that is regulated by the state or federal government;
- (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;
- (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.
- (xvi) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
- (xvii) Any above-ground portion of a well, well pad, or production operation;
- (xviii) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
- (xix) Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
- (b) With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
- (c) Any railroad property;
- (d) An electronic asset of any of the following:
 - (i) An electric light company that is a public utility under section 4905.02 of the Revised Code;
 - (ii) An electric cooperative, as defined in section 4928.01 of the Revised Code;
 - (iii) A municipal electric utility, as defined in section 4928.01 of the Revised Code;
 - (iv) A natural gas company that is a public utility under section 4905.02 of the Revised Code;
 - (v) A telephone company that is a public utility under section 4905.02 of the Revised Code;
 - (vi) A video service provider, including a cable operator, as those terms are defined in section 1332.21 of the Revised Code.
- (5) "Electronic asset" includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.

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

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

(B) Whoever violates this section is guilty of aggravated trespass. Aggravated trespass in violation of division (A)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of division (A)(2) of this section is a felony of the third degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "Critical infrastructure facility" has the same meaning as in section 2911.21 of the

Revised Code.

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

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

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

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

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

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

(1) Criminal mischief in violation of division (A)(7) of section 2909.07 of the Revised Code;

(2) Criminal trespass in violation of division (A)(5) of section 2911.21 of the Revised Code;

(3) Aggravated trespass in violation of division (A)(2) of section 2911.211 of the Revised

Code;

(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;

(5) Making false alarms in violation of division (A)(4) of section 2917.32 of the Revised Code.

(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:

(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;

(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;

(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;

(4) A violation of division (B)(4) 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)(4) of section 2917.21 that involves a threat of damage to or destruction of a critical infrastructure facility;

(5) A violation of division (B)(5) 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)(4) of section 2917.32 of the Revised Code.

SECTION 2. That existing sections 2909.07, 2909.10, 2911.21, 2911.211, and 2917.32 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

This act is not of a general and permanent nature and does not require a code section number.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____