

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 903

103RD GENERAL ASSEMBLY

4858S.03C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 569.086, RSMo, and to enact in lieu thereof three new sections relating to telecommunications infrastructure, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 569.086, RSMo, is repealed and three  
2 new sections enacted in lieu thereof, to be known as sections  
3 569.086, 569.117, and 569.119, to read as follows:

569.086. 1. As used in this section, "critical  
2 infrastructure facility" means any of the following  
3 facilities that are under construction or operational: a  
4 petroleum or alumina refinery; critical electric  
5 infrastructure, as defined in 18 CFR [Section 118.113(c)(3)]  
6 **Section 388.113(c)(3)** including, but not limited to, an  
7 electrical power generating facility, substation, switching  
8 station, electrical control center, or electric power lines  
9 and associated equipment infrastructure; a chemical,  
10 polymer, or rubber manufacturing facility; a water intake  
11 structure, water storage facility, water treatment facility,  
12 wastewater treatment plant, wastewater pumping facility, or  
13 pump station; a natural gas compressor station; a liquid  
14 natural gas terminal or storage facility; a  
15 telecommunications central switching office; **wireline or**  
16 **wireless telecommunications networks, infrastructure, or**  
17 **facilities**, including cell towers, telephone poles and

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 lines, including fiber optic lines; a port, railroad  
19 switching yard, railroad tracks, trucking terminal, or other  
20 freight transportation facility; a gas processing plant,  
21 including a plant used in the processing, treatment, or  
22 fractionation of natural gas or natural gas liquids; a  
23 transmission facility used by a federally licensed radio or  
24 television station; a steelmaking facility that uses an  
25 electric arc furnace to make steel; a facility identified  
26 and regulated by the United States Department of Homeland  
27 Security Chemical Facility Anti-Terrorism Standards (CFATS)  
28 program; a dam that is regulated by the state or federal  
29 government; a natural gas distribution utility facility  
30 including, but not limited to, natural gas distribution and  
31 transmission mains and services, pipeline interconnections,  
32 a city gate or town border station, metering station,  
33 aboveground piping, a regulator station, and a natural gas  
34 storage facility; a crude oil or refined products storage  
35 and distribution facility including, but not limited to,  
36 valve sites, pipeline interconnection, pump station,  
37 metering station, below or aboveground pipeline or piping  
38 and truck loading or offloading facility, a grain mill or  
39 processing facility; **[a] networks and facilities used in the**  
40 generation, transmission, or distribution **[system]** of  
41 broadband internet access; or any aboveground portion of an  
42 oil, gas, hazardous liquid or chemical pipeline, tank,  
43 railroad facility, or other storage facility that is  
44 enclosed by a fence, other physical barrier, or is clearly  
45 marked with signs prohibiting trespassing, that are  
46 obviously designed to exclude intruders.

47 2. A person commits the offense of trespass on a  
48 critical infrastructure facility if he or she purposely  
49 trespasses or enters property containing a critical

50 infrastructure facility without the permission of the owner  
51 of the property or lawful occupant thereof. The offense of  
52 trespass on a critical infrastructure facility is a class B  
53 misdemeanor. If it is determined that the intent of the  
54 trespasser is to damage, destroy, or tamper with equipment,  
55 or impede or inhibit operations of the facility, the person  
56 shall be guilty of a class A misdemeanor.

57 3. [A person commits the offense of damage of a  
58 critical infrastructure if he or she purposely damages,  
59 destroys, or tampers with equipment in a critical  
60 infrastructure facility. The offense of damage of a  
61 critical infrastructure facility is a class D felony.

62 4.] This section shall not apply to conduct protected  
63 under the Constitution of the United States, the  
64 Constitution of [the state of] Missouri, or a state or  
65 federal law or rule.

569.117. 1. A person commits the offense of damage of  
2 a critical infrastructure facility, as defined in section  
3 569.086, if he or she:

- 4 (1) Purposely damages, destroys, or tampers with  
5 equipment in a critical infrastructure facility; or  
6 (2) Willfully or maliciously damages, destroys, or  
7 tampers with a critical infrastructure facility, or removes  
8 any component of the critical infrastructure facility,  
9 excluding equipment.

10 2. Except as provided under subsection 3 of this  
11 section, the offense of damage of a critical infrastructure  
12 facility under:

13 (1) Subdivision (1) of subsection 1 of this section is  
14 a class D felony; or

15 (2) Subdivision (2) of subsection 1 of this section is  
16 a:

17 (a) Class A misdemeanor if the damage is under seven  
18 hundred fifty dollars;

19 (b) Class E felony if the damage is seven hundred  
20 fifty dollars or more but less than twenty-five thousand  
21 dollars; or

22 (c) Class D felony if the damage is twenty-five  
23 thousand dollars or more.

24 3. If the damage to a critical infrastructure facility  
25 causes interruption, impairment, or degradation of service,  
26 the offense of damage of a critical infrastructure facility  
27 shall be a class C felony regardless of value.

28 4. The value of damages under this section shall be  
29 determined under the provisions of section 570.020.

30 5. (1) Any person who commits a violation under this  
31 section shall be required to make restitution and perform  
32 community service as provided in this subsection.

33 (2) Restitution shall be made under the provisions of  
34 section 559.105.

35 (3) Community service shall be imposed as follows:

36 (a) One hundred hours for the first offense;

37 (b) Two hundred hours for the second offense; or

38 (c) Up to three hundred hours for the third or any  
39 subsequent offense.

569.119. 1. As used in this section, the following  
2 terms mean:

3 (1) "Copper, brass, aluminum, fiber, or  
4 telecommunications material", any insulated or noninsulated  
5 copper, brass, aluminum, fiber-optic, or telecommunications  
6 wire, cable, pipe, tubing, power inverter, bus bar,  
7 broadband cable, fiber-optic line, or any material  
8 containing copper, brass, aluminum, fiber, glass, or metal  
9 components that is commonly used in construction, electrical

10 systems, telecommunications networks, broadband  
11 infrastructure, utilities, or related commercial or  
12 industrial applications;

13 (2) "Critical infrastructure facility", the same  
14 meaning as defined under section 569.086;

15 (3) "Firearm", the same meaning as defined under  
16 section 571.010.

17 2. A person commits the offense of unauthorized  
18 possession of certain copper, brass, aluminum, fiber, or  
19 telecommunications material if the person:

20 (1) Knowingly possesses copper, brass, aluminum,  
21 fiber, or telecommunications material; and

22 (2) Is not a person authorized to possess such  
23 material as provided under subsection 3 of this section.

24 3. Subject to subsection 4 of this section, the  
25 following persons are authorized to possess copper, brass,  
26 aluminum, fiber, or telecommunications material:

27 (1) The owner of the material;

28 (2) A public utility, rural electric cooperative,  
29 municipal utility, or common carrier;

30 (3) A telecommunications provider, internet service  
31 provider, cable service provider, or video service provider;

32 (4) A manufacturing, industrial, commercial, retail,  
33 or similar business that sells or uses such material in the  
34 ordinary course of business;

35 (5) A carrier-for-hire acting in the course and scope  
36 of the carrier's business and possessing appropriate  
37 documentation, including a bill of lading or contract  
38 verifying transport information;

39 (6) A scrap metal or metal-recycling entity registered  
40 or licensed under chapter 407 and acting within the ordinary  
41 course of the entity's business;

42           (7) A person acting in the ordinary course of lawful  
43 construction, remodeling, demolition, or salvage work who  
44 lawfully acquires the material through such activities; or

45           (8) Any agent, employee, subcontractor, or  
46 representative of a person described in subdivisions (1) to  
47 (7) of this subsection who is acting within the course and  
48 scope of such authority.

49           4. The authorization provided under subsection 3 of  
50 this section does not apply to a person who knows that the  
51 copper, brass, aluminum, fiber, or telecommunications  
52 material was unlawfully obtained.

53           5. (1) Except as provided in subdivision (2) of this  
54 subsection, the offense of unauthorized possession of  
55 certain copper, brass, aluminum, fiber, or  
56 telecommunications material is a class E felony.

57           (2) The offense of unauthorized possession of certain  
58 copper, brass, aluminum, fiber, or telecommunications  
59 material is a class D felony if it is shown at trial that:

60           (a) The material was unlawfully obtained from a  
61 critical infrastructure facility;

62           (b) The person has a prior conviction for any offense  
63 involving theft, property damage, tampering, receiving  
64 stolen property, or unauthorized possession of copper,  
65 brass, aluminum, fiber, or telecommunications material;

66           (c) The person conspired with or acted in concert with  
67 another to commit theft, property damage, tampering, or  
68 receiving stolen property involving such material; or

69           (d) The person possessed a firearm during the  
70 commission of the offense.

71           6. If conduct constituting an offense under this  
72 section also constitutes an offense under any other

73 provision of law, the person may be prosecuted under either  
74 or both provisions.

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