

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 903

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

4858S.05P

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Section A. Section 569.086, RSMo, is repealed and three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**

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

17 **facilities**, including cell towers, telephone poles and
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.] 3. This section shall not apply to conduct
63 protected 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) Recklessly damages, destroys, or tampers with a
7 critical infrastructure facility, or removes any component
8 of the critical infrastructure facility, excluding equipment.

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

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

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

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

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

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

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

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

29 5. (1) Any person who commits a violation under this
30 section shall be required to make restitution and perform
31 community service as provided in this subsection.

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

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

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

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

37 (c) Up to three hundred hours for the third or any
38 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 2. A person commits the offense of unauthorized
16 possession of certain copper, brass, aluminum, fiber, or
17 telecommunications material if the person:

18 (1) Knowingly possesses copper, brass, aluminum,
19 fiber, or telecommunications material; and

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

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

25 (1) The owner of the material;

26 (2) A public utility, rural electric cooperative,
27 municipal utility, or common carrier;

28 (3) A telecommunications provider, internet service
29 provider, cable service provider, or video service provider;

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

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

37 (6) A scrap metal or metal recycling dealer under
38 chapter 407 and acting within the ordinary course of
39 business;

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

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

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

51 5. (1) Except as provided in subdivision (2) of this
52 subsection, the offense of unauthorized possession of
53 certain copper, brass, aluminum, fiber, or
54 telecommunications material is a class E felony.

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

58 (a) The material was unlawfully obtained from a
59 critical infrastructure facility;

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

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

67 6. If conduct constituting an offense under this
68 section also constitutes an offense under any other
69 provision of law, the person may be prosecuted under either

70 or both provisions subject to the provisions of section
71 556.041.

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