

HB0370S02 compared with HB0370

~~deleted text~~ shows text that was in HB0370 but was deleted in HB0370S02.

inserted text shows text that was not in HB0370 but was inserted into HB0370S02.

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Representative Carl R. Albrecht proposes the following substitute bill:

UTILITY INFRASTRUCTURE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: { } David P. Hinkins

LONG TITLE

General Description:

This bill addresses the destruction of or tampering with a critical infrastructure facility.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes interruption or impairment of critical infrastructure from the crime of criminal mischief;
- ▶ makes it a criminal offense to destroy, damage, or tamper with a critical infrastructure facility;
- ▶ makes it a criminal offense to impersonate a critical infrastructure facility officer or employee; and
- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-27, as last amended by Laws of Utah 2015, Chapters 245, 249

76-6-106, as last amended by Laws of Utah 2012, Chapter 135

76-10-204, as last amended by Laws of Utah 2002, Chapter 166

ENACTS:

76-6-106.3, Utah Code Annotated 1953

76-8-515, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **73-2-27** is amended to read:

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

- (a) Section 73-1-14;
- (b) Section 73-1-15;
- (c) Section 73-2-20;
- (d) Section 73-3-3;
- (e) Section 73-3-26;
- (f) Section 73-3-29;
- (g) Section 73-5-9;
- (h) Section 76-10-201;
- (i) Section 76-10-202; and
- (j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under ~~[Subsection 76-6-106(2)(b)(ii) or Section]~~ Section 76-6-106.3 or 76-6-404, violation of a provision listed in Subsection (1) is punishable:

- (a) as a felony of the third degree if:

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(i) the value of the water diverted or property damaged or taken is \$2,500 or greater;
and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is \$2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 2. Section **76-6-106** is amended to read:

76-6-106. Criminal mischief.

~~[(1) As used in this section, "critical infrastructure" includes:]~~

~~[(a) information and communication systems;]~~

~~[(b) financial and banking systems;]~~

~~[(c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;]~~

~~[(d) any public utility service, including the power, energy, and water supply systems;]~~

~~[(e) sewage and water treatment systems;]~~

~~[(f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;]~~

~~[(g) public health facilities and systems;]~~

~~[(h) food distribution systems; and]~~

~~[(i) other government operations and services.]~~

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) A person commits criminal mischief if the person:

(a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;

(b) intentionally and unlawfully tampers with the property of another and as a result~~[-]~~

~~[(t)]~~ recklessly endangers:

~~[(A)]~~ (i) human life; or

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~~[(B)]~~ (ii) human health or safety; ~~[or]~~

~~[(ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure;]~~

(c) intentionally damages, defaces, or destroys the property of another; or

(d) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.

(3) (a) (i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection ~~[(2)(b)(i)(A)]~~ (2)(b)(i) is a class A misdemeanor.

(iii) A violation of Subsection ~~[(2)(b)(i)(B)]~~ (2)(b)(ii) is a class B misdemeanor.

~~[(iv) A violation of Subsection (2)(b)(ii) is a second degree felony.]~~

(b) Any other violation of this section is a:

(i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;

(ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

(iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

(iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.

(4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

~~[(5) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.]~~

Section 3. Section **76-6-106.3** is enacted to read:

76-6-106.3. Destruction or tampering with a critical infrastructure facility --

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Penalty.

(1) (a) As used in this section:

(i) "Critical infrastructure facility" means:

(A) a petroleum or alumina refinery;

(B) critical electric infrastructure, as defined in 18 C.F.R. Sec. 388.113, including an electrical power generating facility, substation, switching station, electrical control center, or electric power lines and associated equipment infrastructure;

(C) a chemical, polymer, or rubber manufacturing facility;

(D) a water ~~intake structure, water storage facility, water treatment facility, wastewater treatment plant, wastewater pumping facility, or pump station~~ facility as defined in Section 73-1-14;

(E) a natural gas compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a telecommunications ~~central~~ switching, routing, or regeneration office or facility;

(H) wireless telecommunications infrastructure, including cell towers;

(I) ~~telecommunication~~ telecommunications equipment, facilities, or infrastructure, ~~including telephone poles, telephone lines, and fiber optic lines~~ used for the transmission or distribution of a communications service;

(J) a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility;

(K) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(L) a transmission facility used by a federally licensed radio or television station;

(M) a steelmaking facility that uses an electric arc furnace to make steel;

(N) a facility identified and regulated by the Chemical Facility Anti-Terrorism Standards program under 6 U.S.C. Sec. 622;

~~(O) a dam that is regulated by the state or federal government;~~

~~(P)~~ (O) a natural gas distribution utility facility, including natural gas distribution and transmission mains and services, pipeline interconnections, a city gate or town border station, metering station, aboveground piping, a regulator station, and a natural gas storage facility;

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~~(Q)~~P) a crude oil or refined products production, storage, and distribution facility, including a wellhead and associated production and collection infrastructure, valve sites, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping, and truck loading or offloading facility;

~~(R)~~Q) a grain mill or processing facility;

~~(S)~~R) a generation, transmission, or distribution system of broadband Internet access;

~~(T)~~S) an aboveground portion of an oil, gas, hazardous liquid or chemical production facility including the wellhead and associated production and collection infrastructure, pipeline, tank, railroad facility, or other storage facility that is enclosed by a physical barrier or is marked with signs prohibiting trespassing if the enclosures or signs are designed to exclude intruders;

~~(U)~~T) information and communication systems;

~~(V)~~U) financial and banking systems;

~~(W)~~V) airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;

~~(X)~~W) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;

~~(Y)~~X) food distribution systems; or

~~(Z)~~Y) financial and banking systems ~~or~~;

~~(AA)~~ other government operations and services;

~~(i)~~ (ii) "Critical infrastructure facility" includes a facility described in Subsection (1)(a)(i) that is under construction or operational.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor is guilty of destruction or tampering with a critical infrastructure facility if the actor, by physical, cyber, or other means, destroys, damages, tampers with, inhibits, or impedes:

(a) a critical infrastructure facility;

(b) a critical infrastructure facility's equipment; or

(c) a critical infrastructure facility's operation.

(3) (a) A violation of Subsection (2) is a first degree felony if done intentionally or knowingly.

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(b) A violation of Subsection (2) is a second degree felony if done recklessly.

Section 4. Section **76-8-515** is enacted to read:

76-8-515. Impersonation of a utility officer or employee.

(1) (a) As used in this section:

(i) "Critical infrastructure facility" means the same as that term is defined in Section 76-6-113.

(ii) "Sabotage" means the same as that term is defined in Section 76-8-901.

(iii) "Terrorism" means the same as that term is defined in Section 53-2a-102.

(iv) "Utility" means a private or governmental entity operating a critical infrastructure facility.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits impersonation of a utility officer or employee if the actor, without authority from a utility:

(a) intends to lead an individual to believe that the actor is acting on behalf of the utility in an official capacity; and

(b) attempts to act on behalf of the utility.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor, while taking the action described in Subsection (2) intends to commit an act of terrorism or sabotage.

Section 5. Section **76-10-204** is amended to read:

76-10-204. Damaging bridge, dam, canal, or other water-related structure.

(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly commits an offense under Subsection (2) that does not amount to a violation of ~~[Subsection 76-6-106(2)(b)(ii)]~~ Section 76-6-106.3.

(2) Offenses referred to in Subsection (1) are when a person:

(a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim any swamp and overflowed or marsh land, to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

(b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct,

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reservoir, embankment, levee, or structure with intent to injure or destroy it; or

(c) draws up, cuts, or injures any piles fixed in the ground and used for securing any lake or river bank or walls or any dock, quay, jetty, or lock.