

1 HOUSE BILL NO. 481

2 INTRODUCED BY S. GUNDERSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PROTECTION OF CRITICAL
 5 INFRASTRUCTURE; PROVIDING CIVIL AND CRIMINAL PENALTIES FOR PERSONS AND ENTITIES
 6 TRESPASSING ON OR DAMAGING CRITICAL INFRASTRUCTURE FACILITIES; EXEMPTING CERTAIN
 7 ACTIVITIES; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 3 4]:

12 (1) "Critical infrastructure" means systems and assets, whether physical or virtual, so vital to the
 13 United States that the incapacity or destruction of the systems and assets would have a debilitating impact on
 14 security, national economic security, national public health or safety, or any combination of those matters.

15 (2) "Critical infrastructure facility" means:

16 (a) one of the following, if completely enclosed by a fence or other physical barrier that is obviously
 17 designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that
 18 indicate that entry is forbidden without site authorization:

19 (i) a petroleum or alumina refinery;

20 (ii) an electric generating facility, substation, switching station, electrical control center, or electric
 21 transmission and distribution lines and associated equipment infrastructure;

22 (iii) a chemical, polymer, or rubber manufacturing facility;

23 (iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

24 (v) a natural gas compressor station, including but not limited to pipeline interconnections, a city gate
 25 or town border station, a metering station, aboveground piping, AND a regulation station and natural gas storage
 26 facility, ~~and natural gas production facilities;~~

27 (vi) a liquid natural gas terminal or storage facility;

28 (vii) a telecommunications central switching office;

- 1 (viii) wireless telecommunications infrastructure;
- 2 (ix) a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation
3 facility;
- 4 (x) a gas processing plant, including a plant used in the processing, treatment, or fractionation of
5 natural gas or natural gas liquids;
- 6 (xi) a transmission facility used by a federally licensed radio or television station;
- 7 (xii) a steelmaking facility that uses an electric arc furnace to make steel;
- 8 (xiii) a facility identified and regulated by the United States department of homeland security Chemical
9 Facility Anti-Terrorism Standards program;
- 10 (xiv) a dam that is regulated by the state, or THE federal government, OR A TRIBAL GOVERNMENT;
- 11 (xv) a natural gas distribution utility facility, including but not limited to pipeline interconnections, a city
12 gate or town border station, a metering station, aboveground piping, a regular station, and a natural gas storage
13 facility;
- 14 (xvi) aboveground oil, gas, hazardous liquid, and chemical pipelines;
- 15 (xvii) aboveground portions of an oil or NATURAL gas well and associated production facilities;
- 16 (xviii) aboveground portions of a mineral or metal mining facility;
- 17 (xix) correctional facilities;
- 18 (xx) cable television infrastructure, including headends, poles, cable television lines, coaxial and fiber
19 optic lines, and other equipment attached to cable television lines;
- 20 (xxi) military installations, including but not limited to training areas and armories; and
- 21 (xxii) a crude oil, inclusive of Y-grade or natural gas liquids, or a refined products storage and
22 distribution facility, including but not limited to a value site, pipeline interconnection, pump station, metering
23 station, below or aboveground pipeline or piping, and truck loading or offloading facility; ;
- 24 (b) a facility for the construction of a location listed in subsection (2)(a); OR
- 25 (c) a below or aboveground portion of an oil, gas, hazardous liquid, or chemical transmission or
26 distribution pipeline, tank, railroad facility, or other facility that is completely enclosed by a fence or other
27 physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are
28 posted on the property that indicate that entry is forbidden without site authorization; or.

1 ~~(d) a belowground oil, natural gas, or natural gas liquids transmission line.~~

2 (3) "Organization" means a group of people, structured in a specific way to achieve a series of shared
3 goals.

4
5 **NEW SECTION. Section 2. Criminal penalties.** (1) ~~A~~ EXCEPT AS PROVIDED IN [SECTION 4], A person
6 who willfully and knowingly trespasses ~~or enters~~ ON property containing a critical infrastructure facility:

7 ~~(a) without permission by the owner of the critical infrastructure shall, on conviction, be guilty of a~~
8 ~~misdemeanor punishable by a fine of not more than \$1,500 or by imprisonment in the county jail for not more~~
9 ~~than 6 months, or both; or~~

10 ~~(b) without permission by the owner of the critical infrastructure and with intent to willfully damage,~~
11 ~~destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the facility shall, on~~
12 ~~conviction, be guilty of a felony punishable by a fine of not more than \$4,500 or by imprisonment for not more~~
13 ~~than 18 months, or both.~~

14 (A) THAT IS COMPLETELY ENCLOSED BY A FENCE OR OTHER PHYSICAL BARRIER THAT IS OBVIOUSLY DESIGNED
15 TO EXCLUDE INTRUDERS WITH INTENT TO WILLFULLY DAMAGE, DESTROY, VANDALIZE, DEFACE, TAMPER WITH
16 EQUIPMENT, OR MATERIALLY IMPEDE OR INHIBIT OPERATIONS OF THE FACILITY SHALL, ON CONVICTION, BE GUILTY OF A
17 FELONY PUNISHABLE BY A FINE OF NOT MORE THAN \$4,500 OR BY IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR
18 BOTH; AND

19 (B) THAT IS CLEARLY MARKED WITH A SIGN OR SIGNS THAT ARE POSTED ON THE PROPERTY THAT INDICATE
20 THAT ENTRY IS FORBIDDEN WITHOUT SITE AUTHORIZATION WITH INTENT TO WILLFULLY DAMAGE, DESTROY, VANDALIZE,
21 DEFACE, TAMPER WITH EQUIPMENT, OR MATERIALLY IMPEDE OR INHIBIT OPERATIONS OF THE FACILITY SHALL, ON
22 CONVICTION, BE GUILTY OF A FELONY PUNISHABLE BY A FINE OF NOT MORE THAN \$4,500 OR BY IMPRISONMENT FOR NOT
23 MORE THAN 18 MONTHS OR BOTH.

24 (2) A person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a
25 critical infrastructure facility ~~shall, on conviction, be guilty of a felony punishable by a fine of not more than~~
26 ~~\$150,000 or by imprisonment for not more than 30 years, or both.;~~

27 (A) CAUSING LESS THAN \$1,500 IN DAMAGES SHALL, ON CONVICTION, BE GUILTY OF A MISDEMEANOR AND MAY
28 BE INCARCERATED FOR ANY TERM NOT TO EXCEED 6 MONTHS OR BE FINED AN AMOUNT NOT TO EXCEED \$500, OR BOTH,

1 AND MUST BE ORDERED TO MAKE RESTITUTION IN AN AMOUNT AND MANNER TO BE SET BY THE COURT; AND

2 (B) CAUSING DAMAGES GREATER THAN \$1,500 SHALL, ON CONVICTION, BE GUILTY OF A FELONY PUNISHABLE
 3 BY A FINE OF NOT MORE THAN \$150,000 OR BY IMPRISONMENT FOR NOT MORE THAN 30 YEARS, OR BOTH.

4 (3) An organization found to be ~~a conspirator~~ IN A CONSPIRACY, AS THE TERM IS USED IN 45-4-102, with
 5 persons who are found to have committed any of the crimes provided in subsection (1) or (2) ~~shall~~ MAY be
 6 punished by a fine ~~that is~~ UP TO 10 times the amount of the fine provided for the appropriate crime.

7
 8 NEW SECTION. Section 3. Civil penalties. (1) A person who trespasses in a critical infrastructure
 9 facility THAT IS COMPLETELY ENCLOSED BY A FENCE OR OTHER PHYSICAL BARRIER THAT IS OBVIOUSLY DESIGNED TO
 10 EXCLUDE INTRUDERS, OR THAT IS CLEARLY MARKED WITH A SIGN OR SIGNS THAT ARE POSTED ON THE PROPERTY THAT
 11 INDICATE THAT ENTRY IS FORBIDDEN WITHOUT AUTHORIZATION, AND ENTERS WITH INTENT TO WILLFULLY DAMAGE,
 12 DESTROY, VANDALIZE, DEFACE, TAMPER WITH EQUIPMENT, OR IMPEDE OR INHIBIT OPERATIONS OF THE FACILITY may be
 13 held liable for damages to personal or real property while trespassing, including damages and expenses from
 14 network performance or outage issues proximately caused by the trespass.

15 (2) A person or entity that DIRECTS A PERSON TO TRESPASS AS DESCRIBED IN SUBSECTION (1),
 16 compensates, provides consideration to, or remunerates a person for trespassing as described in subsection
 17 (1) may also be held vicariously liable for damages to personal or real property committed by the person
 18 compensated or remunerated for trespassing.

19
 20 NEW SECTION. SECTION 4. EXEMPT ACTIVITIES. NOTHING IN [SECTIONS 1 THROUGH 4] MAY BE
 21 CONSTRUED TO LIMIT LEGALLY PERMISSIBLE ACTIVITY UNDER 29 U.S.C. 151 THROUGH 169, AS THOSE SECTIONS
 22 EXISTED ON DECEMBER 23, 2020.

23
 24 NEW SECTION. Section 5. Codification instruction. [Sections 1 through ~~3~~ 4] are intended to be
 25 codified as an integral part of Title 82, and the provisions of Title 82 apply to [sections 1 through ~~3~~ 4].

26
 27 NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are
 28 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

1 the part remains in effect in all valid applications that are severable from the invalid applications.

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3 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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