

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 58
Agriculture, Energy, and Environment Committee Substitute Adopted 2/28/23
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S58-PCS45347-RI-24

Short Title: Protect Critical Infrastructure. (Public)

Sponsors:

Referred to:

February 2, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED
3 AGAINST UTILITIES, INCLUDING FACILITIES INVOLVED IN THE
4 TRANSMISSION OF TELEPHONE, BROADBAND, BROADCAST, OR CABLE
5 TELECOMMUNICATIONS SERVICES AND FACILITIES INVOLVED IN THE
6 PRODUCTION, STORAGE, TRANSMISSION, OR DISTRIBUTION OF ELECTRICITY,
7 FUEL, OR ANOTHER FORM OR SOURCE OF ENERGY.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Article 22 of Chapter 14 of the General Statutes is amended by adding
10 a new section to read:

11 "**§ 14-150.2. Injuring energy facility.**

12 (a) Definition. – For purposes of this section, the term "energy facility" means any facility
13 involved in (i) the production, storage, transmission, or distribution of electricity, fuel, or another
14 form or source of energy or (ii) research, development, or demonstration related to the
15 production, storage, transmission, or distribution of electricity, fuel, or another form or source of
16 energy. This term includes any:

17 (1) Facility in operation, under construction, or otherwise not functioning;

18 (2) Line, wire, pipe, or other property or equipment used as part of the normal
19 operation of the facility; and

20 (3) Hardware, software, or other digital infrastructure necessary for the operations
21 of a facility.

22 (b) Offense. – It is unlawful to knowingly and willfully (i) destroy, injure, or otherwise
23 damage, or attempt to destroy, injure, or otherwise damage, an energy facility or (ii) obstruct,
24 impede, or impair the services or transmissions of an energy facility, or attempt to obstruct,
25 impede, or impair the services or transmissions of an energy facility.

26 (c) Punishment. – A person who violates subsection (b) of this section is guilty of a Class
27 C felony, except that a violation that results in the death of another is a Class B2 felony.
28 Additionally, a person who violates subsection (b) of this section shall be ordered to pay a fine
29 of two hundred fifty thousand dollars (\$250,000).

30 (d) Merger. – Each violation of this section constitutes a separate offense and shall not
31 merge with any other offense.

32 (e) Civil Remedies. – Any person whose property or person is injured by reason of a
33 violation of subsection (b) of this section shall have a right of action on account of such injury



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1 done against the person who committed the violation and any person who acts as an accessory
 2 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation
 3 of this section. If damages are assessed in such case the plaintiff shall be entitled to recover treble
 4 the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D of the
 5 General Statutes, together with costs, including attorneys' fees. A violation of this subsection (b)
 6 of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7) in
 7 any civil action filed as a result of the violation. The rights and remedies provided by this
 8 subsection are in addition to any other rights and remedies provided by law. For purposes of this
 9 subsection, the term "damages" includes actual and consequential damages.

10 (f) Nothing in this section shall apply to demolition work and other activity that is
 11 performed at or on an energy facility by the owner or operator of the facility, or an agent of the
 12 owner or operator authorized to perform such work or activity by the owner or operator.

13 (g) The provisions of subsection (e) of this section relating to treble damages shall not be
 14 made known to the trier of fact through any means, including voir dire, the introduction into
 15 evidence, argument, or instructions to the jury."

16 **SECTION 1.5.** Chapter 1D of the General Statutes is amended by adding a new
 17 section to read:

18 **"§ 1D-27. Injuring energy facility; exemption from cap.**

19 G.S. 1D-25(b) shall not apply to a claim for punitive damages for injury or harm arising from
 20 actions of the defendant that constitute a violation of G.S. 14-150.2(b)."

21 **SECTION 2.** G.S. 14-159.12 reads as rewritten:

22 **"§ 14-159.12. First degree trespass.**

23 (a) Offense. – A person commits the offense of first degree trespass if, without
 24 authorization, ~~he~~ the person enters or remains;remains on or in any of the following:

- 25 (1) ~~On~~ The premises of another so enclosed or secured as to demonstrate clearly
 26 an intent to keep out intruders;intruders.
 27 (2) ~~In a~~ The building of another; oranother.
 28 (3) ~~On the~~ The lands of the Eastern Band of Cherokee Indians after the person has
 29 been excluded by a resolution passed by the Eastern Band of Cherokee Indian
 30 Tribal Council.

31 ...

32 (c) Except as otherwise provided in subsection (d) of this section, a violation of
 33 subsection (a) of this section is a Class ~~A1 misdemeanor~~ I felony if all of the following
 34 circumstances exist:

- 35 (1) The offense is committed on the premises of any of the following:
 36 a. ~~A facility that is owned or operated by an electric power supplier as~~
 37 ~~defined in G.S. 62-133.8(a)(3) and that is either an electric generation~~
 38 ~~facility, a transmission substation, a transmission switching station, a~~
 39 ~~transmission switching structure, or a control center used to manage~~
 40 ~~transmission operations or electrical power generating at multiple~~
 41 ~~plant locations.~~
 42 b. Any facility used or available for use in the collection, treatment,
 43 testing, storing, pumping, or distribution of water for a public water
 44 system.
 45 c. ~~Any facility, including any liquefied natural gas storage facility or~~
 46 ~~propane air facility, that is owned or operated by a natural gas local~~
 47 ~~distribution company, natural gas pipeline carrier operating under a~~
 48 ~~certificate of public convenience and necessity from the Utilities~~
 49 ~~Commission, municipal corporation operating a municipally owned~~
 50 ~~gas distribution system, or regional natural gas district organized and~~
 51 ~~operated pursuant to Article 28 of Chapter 160A of the General~~

~~Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.~~

d. Any facility used or operated for agricultural activities, as that term is defined in G.S. 106-581.1.

e. An energy facility, as that term is defined by G.S. 14-150.2.

f. A facility owned by a public utility, as that term is defined under G.S. 62-3, or a unit of local government, used for the treatment of wastewater, including sewage, industrial waste, or other wastes of a liquid nature.

(2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.

(d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class ~~H~~G felony:

(1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.

(2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.

...."

SECTION 3. G.S. 14-154 reads as rewritten:

"**§ 14-154. Injuring wires and other fixtures of ~~telephone, telegraph, and electric power~~ telephone, broadband, broadcast, or cable telecommunications companies.**

If any person shall willfully injure, ~~destroy~~destroy, or pull down any ~~telegraph, telephone, telephone, broadband, broadcast, or cable telecommunications, or electric power transmission telecommunications~~ pedestal or pole, or any ~~telegraph, telephone, cable telecommunications, or electric power line, wire or fiber insulator, power supply, transformer, transmission or other apparatus, equipment~~equipment, or fixture used in the transmission of ~~telegraph, telephone, eable telecommunications, or electrical power service~~telephone, broadband, broadcast, or cable telecommunications, or any equipmentapparatus, equipment, or fixture related to broadcast or wireless communications regulated by the Federal Communications Commission, that person shall be guilty of a Class ~~I~~C felony."

SECTION 4. G.S. 14-152 and G.S. 14-156 are repealed.

SECTION 5. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 6. This act becomes effective December 1, 2023, and applies to offenses committed on or after that date.