

Before the House Judiciary Committee  
Presented by Zack Pistora, Kansas Sierra Club  
Opponent to SB 172  
March 17th, 2021



Chairman Patton and Honorable Members of the Committee,

Thank you for the opportunity to submit oppositional testimony on SB 172, which addresses the crimes of trespassing and damages to a ‘critical infrastructure’ facility.

As one of the country’s largest and oldest grassroots nonprofit organizations dedicated to protecting our environment for current and future generations, the Sierra Club is proud to uphold its mission of “educating and enlisting humanity to protect and restore the quality of the natural and human environment; and **to use all lawful means to carry out these objectives.**” We want to make it crystal-clear that our Kansas Chapter does not advocate for lawlessness or committing crimes in our pursuits of environmental protection.

**Because crimes of trespassing, property damage, and tampering with energy infrastructure like pipelines already exist, there is no real need for SB 172.**

In our view, current Kansas law is wholly adequate in its existing law that protects public and private property from trespassing or criminal damages. To our current knowledge, there is not a pressing need for increased levels of punishments, as there is no indication or prospect for increased levels of such crimes as it relates to critical infrastructure in Kansas.

**Instead, by expanding the scope of trespassing with ‘aggravated trespassing’ in SB 172 could invite a wide array of adverse unintended consequences and penalties for minor/accidental infractions or legal free speech.**

Section 1, subsection (B)2, declares ‘impede or inhibit operations of the facility’ which could equivocate an accidental infraction, such as cows getting loose or a broken-down vehicle that obstructs traffic on a public road that serves a sole route critical infrastructure facility could now potentially be a level 7 nonperson felony. What about a parade or citizen march on such a road? What about a teenager that who does not realize that graffitiing a dam or pipeline could amount to a felony record? With our reading of SB 172, legal parades or protests could potentially be felony crimes if the critical infrastructure owners objected. Rather, this legislation could practically interfere with legal free speech rights or tribal sovereignty (think Standing Rock). Therefore, SB 172 could invite costly litigation.

**Finally, Kansans need energy-related economic opportunity and relief, not SB 172, at this most difficult time.**

Kansans are facing extraordinary difficulties right now due to the pandemic. Energy and utility-related policy improvements could really improve people’s lives as well as our state’s economy right now. SB 172 is focusing on hypothetical situations that have no real, immediate direct benefit for Kansans. This bill is unnecessary, a distraction, and a disservice to Kansans who are counting on this committee for meaningful policy improvements.

While we all can agree that intentional damage to critical infrastructure should be penalized appropriately, this bill could interfere with peaceful, legal events or cause overly aggressive criminal penalties for accidental or petty trespassers/vandalism. Since current law has prevented and addresses these crimes, there is no need for SB 172.

Sincerely,

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*The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for more than forty years.*