

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 17, 2021

Subject: Bill Brief on SB 172

SB 172 creates new crimes related to critical infrastructure facilities.

Current law in K.S.A. 21-5818 contains the crime of tampering with a pipeline, which is a severity level 6, nonperson felony. Section 1 strikes those provisions and creates new crimes related to critical infrastructure facilities. Trespassing on a critical infrastructure facility is, without consent, knowingly entering or remaining in a critical infrastructure facility or any property containing a critical infrastructure facility if the property is completely enclosed or clearly marked with a sign indicating that entry is forbidden. Violation of this offense would be a class A nonperson misdemeanor. Aggravated trespassing on a critical infrastructure is committing trespassing on a critical infrastructure facility with the intent to damage, destroy, vandalize, deface or tamper with or impede or inhibit the operations of such facility. Violation of this offense would be a severity level 7, nonperson felony. Criminal damage to a critical infrastructure facility is knowingly damaging, destroying, vandalizing, defacing or tampering with a critical infrastructure facility. Violation of this offense would be a severity level 6, nonperson felony. Aggravated criminal damage to a critical infrastructure facility is committing criminal damage to a critical infrastructure with the intent to impede or inhibit operations of the facility. Violation of this offense would be a severity level 5, nonperson felony.

Nothing in the section would be construed to prevent an owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity. This section also defines critical infrastructure, which is included at the bottom of this memo.

Section 2 amends K.S.A. 21-6328, part of the Kansas racketeer influenced and corrupt organization act (RICO), to change the name of the crime in K.S.A. 21-5818 and include violations of the new offenses in the definition of “racketeering activity”.

Section 3 amends K.S.A. 21-6604(b)(1) to provide that when a person commits a crime described in K.S.A. 21-5818, for purposes of restitution, the damage or loss shall include the cost of repair or replacement of the property that was damaged.

“Critical infrastructure facility” means a:

- (1) Petroleum or alumina refinery;
- (2) facility generating electrical power, substation, switching station, electrical control center, electric power lines, including lines used for the transmission of electricity, or associated equipment infrastructure;
- (3) chemical, polymer or rubber manufacturing facility;
- (4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;
- (5) natural gas compressor station;
- (6) liquid natural gas or propane terminal or storage facility;
- (7) facility that is used for wireline, broadband or wireless telecommunications infrastructure, including backup power supplies and cable television headend;
- (8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;
- (9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids;
- (10) transmission facility used by a federally licensed radio or television station;
- (11) steelmaking facility that uses an electric arc furnace to make steel;
- (12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program;
- (13) dam that is regulated by the state or federal government;
- (14) natural gas distribution utility facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;
- (15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or
- (16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.