

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 903

AN ACT

To repeal section 569.086, RSMo, and to enact in lieu thereof three new sections relating to telecommunications infrastructure, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 569.086, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 569.086, 569.117, and 569.119, to read as follows:

569.086. 1. As used in this section, "critical infrastructure facility" means any of the following facilities that are under construction or operational: a petroleum or alumina refinery; critical electric infrastructure, as defined in 18 CFR [Section 118.113(c)(3)] Section 388.113(c)(3) including, but not limited to, an electrical power generating facility, substation, switching station, electrical control center, or electric power lines and associated equipment infrastructure; a chemical, polymer, or rubber manufacturing facility; a water intake structure, water storage facility, water treatment facility, wastewater treatment plant, wastewater pumping facility, or pump station; a natural gas compressor station; a liquid natural gas terminal or storage facility; a telecommunications central switching office; wireline or wireless telecommunications networks, infrastructure, or facilities, including cell towers, telephone poles and lines, including fiber optic lines; a port, railroad switching yard, railroad tracks, trucking terminal, or other freight transportation facility; a gas processing plant,

including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids; a transmission facility used by a federally licensed radio or television station; a steelmaking facility that uses an electric arc furnace to make steel; a facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program; a dam that is regulated by the state or federal government; a natural gas distribution utility facility including, but not limited to, 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; a crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnection, pump station, metering station, below or aboveground pipeline or piping and truck loading or offloading facility, a grain mill or processing facility; ~~[a] networks and facilities used in the generation, transmission, or distribution [system] of~~ broadband internet access; or any aboveground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility, or other storage facility that is enclosed by a fence, other physical barrier, or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

2. A person commits the offense of trespass on a critical infrastructure facility if he or she purposely trespasses or enters property containing a critical infrastructure facility without the permission of the owner of the property or lawful occupant thereof. The offense of trespass on a critical infrastructure facility is a class B misdemeanor. If it is determined that the intent of the

trespasser is to damage, destroy, or tamper with equipment, or impede or inhibit operations of the facility, the person shall be guilty of a class A misdemeanor.

3. [A person commits the offense of damage of a critical infrastructure if he or she purposely damages, destroys, or tampers with equipment in a critical infrastructure facility. The offense of damage of a critical infrastructure facility is a class D felony.]

4.] This section shall not apply to conduct protected under the Constitution of the United States, the Constitution of [the state of] Missouri, or a state or federal law or rule.

569.117. 1. A person commits the offense of damage of a critical infrastructure facility, as defined in section 569.086, if he or she:

(1) Purposely damages, destroys, or tampers with equipment in a critical infrastructure facility; or
(2) Willfully or maliciously damages, destroys or tampers with a critical infrastructure facility, or removes any component of the critical infrastructure facility, excluding equipment.

2. Except as provided under subsection 3 of this section, the offense of damage of a critical infrastructure facility under:

(1) Subdivision (1) of subsection 1 of this section is a class D felony; or
(2) Subdivision (2) of subsection 1 of this section is a:
(a) Class A misdemeanor if the damage is under seven hundred fifty dollars;
(b) Class E felony if the damage is seven hundred fifty dollars or more but less than twenty-five thousand dollars; or

(c) Class D felony if the damage is twenty-five thousand dollars or more.

3. If the damage to a critical infrastructure facility causes interruption, impairment, or degradation of service, the offense of damage of a critical infrastructure facility shall be a class C felony regardless of value.

4. The value of damages under this section shall be determined under the provisions of section 570.020.

5. (1) Any person who commits a violation under this section shall be required to make restitution and perform community service as provided in this subsection.

(2) Restitution shall be made under the provisions of section 559.105.

(3) Community service shall be imposed as follows:

(a) One hundred hours for the first offense;

(b) Two hundred hours for the second offense; or

(c) Up to three hundred hours for the third or any subsequent offense.

569.119. 1. As used in this section, the following terms mean:

(1) "Copper, brass, aluminum, fiber, or telecommunications material", any insulated or noninsulated copper, brass, aluminum, fiber-optic, or telecommunications wire, cable, pipe, tubing, power inverter, bus bar, broadband cable, fiber-optic line, or any material containing copper, brass, aluminum, fiber, glass, or metal components that is commonly used in construction, electrical systems, telecommunications networks, broadband infrastructure, utilities, or related commercial or industrial applications;

(2) "Critical infrastructure facility", the same meaning as defined under section 569.086;

(3) "Firearm", the same meaning as defined under section 571.010.

2. A person commits the offense of unauthorized possession of certain copper, brass, aluminum, fiber, or telecommunications material if the person:

(1) Knowingly possesses copper, brass, aluminum, fiber, or telecommunications material; and

(2) Is not a person authorized to possess such material as provided under subsection 3 of this section.

3. Subject to subsection 4 of this section, the following persons are authorized to possess copper, brass, aluminum, fiber, or telecommunications material:

(1) The owner of the material;

(2) A public utility, rural electric cooperative, municipal utility, or common carrier;

(3) A telecommunications provider, internet service provider, cable service provider, or video service provider;

(4) A manufacturing, industrial, commercial, retail, or similar business that sells or uses such material in the ordinary course of business;

(5) A carrier-for-hire acting in the course and scope of the carrier's business and possessing appropriate documentation, including a bill of lading or contract verifying transport information;

(6) A scrap metal or metal-recycling entity registered or licensed under chapter 407 and acting within the ordinary course of the entity's business;

(7) A person acting in the ordinary course of lawful construction, remodeling, demolition, or salvage work who lawfully acquires the material through such activities; or

(8) Any agent, employee, subcontractor, or representative of a person described in subdivisions (1) to

(7) of this subsection who is acting within the course and scope of such authority.

4. The authorization provided under subsection 3 of this section does not apply to a person who knows that the copper, brass, aluminum, fiber, or telecommunications material was unlawfully obtained.

5. (1) Except as provided in subdivision (2) of this subsection, the offense of unauthorized possession of certain copper, brass, aluminum, fiber, or telecommunications material is a class E felony.

(2) The offense of unauthorized possession of certain copper, brass, aluminum, fiber, or telecommunications material is a class D felony if it is shown at trial that:

(a) The material was unlawfully obtained from a critical infrastructure facility;

(b) The person has a prior conviction for any offense involving theft, property damage, tampering, receiving stolen property, or unauthorized possession of copper, brass, aluminum, fiber, or telecommunications material;

(c) The person conspired with or acted in concert with another to commit theft, property damage, tampering, or receiving stolen property involving such material; or

(d) The person possessed a firearm during the commission of the offense.

6. If conduct constituting an offense under this section also constitutes an offense under any other provision of law, the person may be prosecuted under either or both provisions.