

2018 Regular Session

HOUSE BILL NO. 727

BY REPRESENTATIVES THIBAUT, ABRAHAM, AMEDEE, ANDERS, BAGLEY, BERTHELOT, BILLIOT, BISHOP, TERRY BROWN, CARMODY, STEVE CARTER, CHANEY, COUSSAN, CREWS, CROMER, DANAHAY, DAVIS, DEVILLIER, DWIGHT, EDMONDS, EMERSON, GUINN, LANCE HARRIS, HAVARD, HAZEL, HENSGENS, HODGES, HOFFMANN, HORTON, HOWARD, LEBAS, LEOPOLD, MACK, MAGEE, MCFARLAND, MIGUEZ, JIM MORRIS, NORTON, POPE, PUGH, PYLANT, RICHARD, SCHEXNAYDER, SEABAUGH, STAGNI, STEFANSKI, TALBOT, THOMAS, WRIGHT, AND ZERINGUE AND SENATORS BOUDREAUX, CHABERT, CLAITOR, CORTEZ, ERDEY, HEWITT, JOHNS, LAFLEUR, LAMBERT, MORRISH, RISER, THOMPSON, WALSWORTH, AND WHITE

CRIME: Provides relative to unauthorized entry of and criminal damage to a critical infrastructure

1 AN ACT
2 To amend and reenact R.S. 14:61(B)(1) and (C) and to enact R.S. 14:61(B)(3), 61.1, and
3 61.2, relative to offenses involving critical infrastructure; to provide relative to the
4 crime of unauthorized entry of a critical infrastructure; to amend the definition of
5 "critical infrastructure"; to provide for a definition of "pipeline"; to amend the
6 penalties for the crime of unauthorized entry of a critical infrastructure; to create the
7 crime of criminal damage to critical infrastructure; to provide for elements of the
8 offense; to provide for criminal penalties; to create the crime of conspiracy to engage
9 in unauthorized entry of a critical infrastructure or in criminal damage to a critical
10 infrastructure; to provide for elements of the offense; to provide for criminal
11 penalties; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 14:61(B)(1) and (C) is hereby amended and reenacted and R.S.
14 14:61(B)(3), 61.1, and 61.2 are hereby enacted to read as follows:

1 §61. Unauthorized entry of a critical infrastructure

2 * * *

3 B. For the purposes of this Section, the following words shall have the
4 following meanings:

5 (1) "Critical infrastructure" ~~shall include but not be limited to~~ means any and
6 all structures, equipment, or other immovable or movable property located within or
7 upon chemical manufacturing facilities, refineries, electrical power generating
8 facilities, electrical transmission substations and distribution substations, water
9 intake structures and water treatment facilities, natural gas transmission compressor
10 stations, liquified natural gas (LNG) terminals and storage facilities, natural gas and
11 hydrocarbon storage facilities, ~~and~~ transportation facilities, such as ports, railroad
12 switching yards, pipelines, and trucking terminals, or any site where the construction
13 or improvement of any facility or structure referenced in this Section is occurring.

14 * * *

15 (3) "Pipeline" means flow, transmission, distribution, or gathering lines,
16 regardless of size or length, which transmit or transport oil, gas, petrochemicals,
17 minerals, or water in a solid, liquid, or gaseous state.

18 C. Whoever commits the crime of unauthorized entry of a critical
19 infrastructure shall be imprisoned with or without hard labor for not more than five
20 years, fined not more than one thousand dollars ~~or imprisoned with or without hard~~
21 ~~labor for not more than six years~~, or both.

22 * * *

23 §61.1. Criminal damage to a critical infrastructure

24 A. Criminal damage to a critical infrastructure is the intentional damaging
25 of a critical infrastructure as defined in R.S. 14:61.

26 B. Any person who commits the crime of criminal damage to a critical
27 infrastructure shall be imprisoned with or without hard labor for not less than one
28 year nor more than fifteen years, fined not more than ten thousand dollars, or both.

1 C. Any person who commits the crime of criminal damage to a critical
2 infrastructure wherein it is foreseeable that human life will be threatened or
3 operations of a critical infrastructure will be disrupted as a result of such conduct
4 shall be imprisoned at hard labor for not less than six years nor more than twenty
5 years, fined not more than twenty-five thousand dollars, or both.

6 D. A person convicted under the provisions of this Section may be ordered
7 to make restitution to the owner of the property pursuant to Code of Criminal
8 Procedure Article 883.2.

9 §61.2. Conspiracy to engage in unauthorized entry of a critical infrastructure or to
10 engage in criminal damage to a critical infrastructure

11 A. If two or more persons conspire, as defined by R.S. 14:26, to violate R.S.
12 14:61, each person shall be imprisoned with or without hard labor for not more than
13 five years, fined not more than ten thousand dollars, or both.

14 B. Except as provided in Subsection C of this Section, if two or more
15 persons conspire, as defined by R.S. 14:26, to violate R.S. 14:61.1, each person shall
16 be imprisoned with or without hard labor for not less than one year nor more than
17 fifteen years, fined not more than one hundred thousand dollars, or both.

18 C. If two or more persons conspire, as defined by R.S. 14:26, to violate R.S.
19 14:61.1 wherein it is foreseeable that human life will be threatened or operations of
20 a critical infrastructure will be disrupted as a result of such conduct, each person
21 shall be imprisoned at hard labor for not less than six years nor more than twenty
22 years, fined not more than two hundred fifty thousand dollars, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 727 Reengrossed

2018 Regular Session

Thibaut

Abstract: Amends the crime of unauthorized entry of a critical infrastructure and creates the crime of criminal damage to a critical infrastructure and the crime of conspiracy to commit either of these offenses.

Present law provides for the crime of unauthorized entry of a critical infrastructure and defines critical infrastructure as any chemical manufacturing facility, refinery, electrical power generating facility, electrical transmission substation and distribution substation, water intake structure and water treatment facility, natural gas transmission compressor station, liquified natural gas (LNG) terminal and storage facility, natural gas and hydrocarbon storage facility, and transportation facility, such as ports, railroad switching yards, and trucking terminals.

Proposed law amends the present law definition of "critical infrastructure" to do both of the following:

- (1) Include any and all structures, equipment, or other immovable or movable property located within or upon such facilities, including any site where the construction or improvement of any such facility or structure is occurring.
- (2) Include "pipeline" which is defined by proposed law to mean flow, transmission, distribution, or gathering lines, regardless of size or length, which transmit or transport oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state.

Present law provides that whoever commits the crime of unauthorized entry of a critical infrastructure shall be fined not more than \$1,000 or imprisoned with or without hard labor for not more than six years, or both.

Proposed law amends the present law penalties to provide that such persons shall be imprisoned with or without hard labor for not more than five years, fined not more than \$1,000, or both.

Proposed law creates the crime of criminal damage to a critical infrastructure and defines it as the intentional damaging of a critical infrastructure as defined by present law. Further provides for the following penalties:

- (1) Imprisonment with or without hard labor for not less than one year nor more than 15 years, a fine of not more than \$10,000, or both.
- (2) If it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of the conduct - imprisonment at hard labor for not less than six years nor more than 20 years, a fine of not more than \$25,000, or both.

Proposed law authorizes the court to order that the person make restitution to the owner of the property pursuant to present law (C.Cr.P. Art. 883.2).

Proposed law creates the crime of conspiracy to engage in unauthorized entry of a critical infrastructure or to engage in criminal damage to a critical infrastructure, and provides for the following penalties:

- (1) If two or more persons conspire, as defined by present law (R.S. 14:26), to commit the crime of unauthorized entry of a critical infrastructure, each person shall be imprisoned with or without hard labor for not more than five years, fined not more than \$10,000, or both.
- (2) If two or more persons conspire, as defined by present law (R.S. 14:26), to commit criminal damage to a critical infrastructure, each person shall be imprisoned with or without hard labor for not less than one year nor more than 15 years, fined not more than \$100,000, or both.

- (3) If two or more persons conspire, as defined by present law (R.S. 14:26), to commit criminal damage to a critical infrastructure wherein it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of such conduct, each person shall be imprisoned at hard labor for not less than six years nor more than 20 years, fined not more than \$250,000, or both.

(Amends R.S. 14:61(B)(1) and (C); Adds R.S. 14:61(B)(3), 61.1, and 61.2)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove the provision which authorized the court to assess court costs and costs of investigation and prosecution.
2. Provide that the proposed law authorization to require the person to make restitution to the property owner shall be pursuant to the present law provision which provides for the payment of restitution in criminal cases.
3. For purposes of proposed law, define "conspire" as that term is defined by present law (R.S. 14:26).