

Stricken language would be deleted from and underlined language would be added to present law.
Act 712 of the Regular Session

State of Arkansas As Engrossed: H2/25/21 H3/8/21 S3/16/21
93rd General Assembly **A Bill**
Regular Session, 2021

HOUSE BILL 1321

By: Representatives Gazaway, Boyd, Bryant, Cloud, Dalby, L. Fite, M. Gray, Haak, Hawks, Hillman,
Jean, L. Johnson, J. Mayberry, McCollum, Ray, Underwood

By: Senators A. Clark, Hester, Rapert

For An Act To Be Entitled

AN ACT CONCERNING OFFENSES COMMITTED AGAINST CRITICAL
INFRASTRUCTURE; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING OFFENSES COMMITTED AGAINST
CRITICAL INFRASTRUCTURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-38-101, concerning definitions used with respect to damage or property destruction offenses, is amended to add additional subdivisions to read as follows:

(6) "Critical infrastructure" means any of the following facilities that are either completely enclosed by a fence or other physical barrier that is designed to exclude persons without permission to be in the facility or otherwise is clearly marked with signs that are reasonably likely to be seen by another person that indicate entry or unauthorized access is forbidden without facility authorization:

(A) A chemical or rubber manufacturing facility;

(B) A water intake structure, water treatment facility, wastewater facility, drainage facility, water management facility, or any similar water or sewage treatment system and the water or sewage treatment system's piping;

(C) A food processing or manufacturing facility;

(D) A natural gas company facility or interstate natural



gas pipeline, including without limitation:

(i) A pipeline interconnection;

(ii) A natural gas compressor station and associated facility;

(iii) A city gate or town border station;

(iv) A metering station;

(v) Aboveground piping;

(vi) A regulator station;

(vii) A valve site;

(viii) A delivery station; and

(ix) Fabricated assembly and any part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;

(E) Wireline or wireless telecommunications infrastructure, including telecommunications towers, telephone poles, telephone lines, and fiber optic lines;

(F) A port, trucking terminal, or other freight transportation facility;

(G) A gas processing plant, including a gas processing plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(H) A crude oil or refined products storage and distribution facility, including without limitation:

(i) A valve site;

(ii) A pipeline interconnection;

(iii) A pump station;

(iv) A metering station;

(v) A belowground or aboveground pipeline or piping;

(vi) A truck loading or off-loading facility; and

(vii) An aboveground portion of a well, well pad, or production operation;

(I) A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;

(J) A portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, or other storage facility that is aboveground;

(K) A video service network and broadband infrastructure, including without limitation:

(i) Associated buildings and facilities;

(ii) Video service headends, towers, utility poles, and utility lines; and

(iii) Fiber optic lines;

(L) A mining operation, including any processing equipment, batching operation, or support facility for that mining operation;

(M) A facility installed in a public right-of-way on a utility pole or in a conduit that is aboveground and concerns a video service network or broadband or wireless telecommunications infrastructure;

(N) Railroad property; and

(O) Property owned by and considered an electronic asset of any of the following:

(i) An electric utility;

(ii) An electric cooperative;

(iii) A municipal electric utility;

(iv) A natural gas company that is a public utility;

(v) A telephone company that is a public utility; or

(vi) A video service provider, including a cable operator; and

(7) "Electronic asset" means:

(A) The hardware, software, and data of a programmable electronic device;

(B) All communications, operations, and customer data networks; and

(C) The contents of customer data networks.

SECTION 2. Arkansas Code § 5-38-203(a) and (b), concerning the offense of criminal mischief in the first degree, are amended to read as follows:

(a) A person commits the offense of criminal mischief in the first degree if he or she purposely and without legal justification destroys or causes damage to any:

(1) Property of another; ~~or~~

(2) Property, whether his or her own or property of another, for the purpose of collecting any insurance for the property; or

(3) Critical infrastructure.

(b) Criminal mischief in the first degree is a:

(1) Class A misdemeanor if the amount of actual damage is one thousand dollars (\$1,000) or less;

(2) Class D felony if the amount of actual damage is more than one thousand dollars (\$1,000) but five thousand dollars (\$5,000) or less;

(3) Class C felony if the amount of actual damage is more than five thousand dollars (\$5,000) but less than twenty-five thousand dollars (\$25,000); or

(4) Class B felony if:

(A) ~~the~~ The amount of actual damage is twenty-five thousand dollars (\$25,000) or more; or

(B) The property is critical infrastructure.

SECTION 3. Arkansas Code § 5-39-101, concerning definitions used with respect to burglary, trespass, and other intrusion offenses, is amended to add an additional subdivision to read as follows:

(10) "Critical infrastructure" means the same as defined in § 5-38-101.

SECTION 4. Arkansas Code § 5-39-203(a) and (b), concerning the offense of criminal trespass, are amended to read as follows:

(a) A person commits criminal trespass if he or she purposely enters or remains unlawfully in or upon:

(1) A vehicle of another person; ~~or~~

(2) The premises owned or leased by another person; or

(3) Critical infrastructure.

(b) Criminal trespass is a:

(1) Class D felony if:

(A) ~~the~~ The person has two (2) or more convictions for a Class A misdemeanor violation of this section or § 5-39-305; or

(B) The premises is critical infrastructure;

(2) Class A misdemeanor if:

(A) At the time of the criminal trespass, the person is in possession of one (1) or more of the following:

(i) A killing device;

- (ii) A harvesting device;
- (iii) A device primarily used for the location and unearthing of buried or submerged artifacts; or
- (iv) A tool designed to gain entry into a structure by breaking a lock or breaking through a fence, including without limitation a boltcutter;

(B) The person is on premises containing a commercial fishing or fish breeding operation and at that time is in possession of a fishing pole or net designed to capture fish; or

(C) The person has a prior conviction for a violation of this section;

(3) Class B misdemeanor if:

(A) The vehicle or premises involved is an occupiable structure; or

(B) The conduct involves the removal of a posted sign, a fence, or a portion of a fence as defined in § 2-39-102; or

(4) Class C misdemeanor if otherwise committed.

SECTION 5. Arkansas Code § 5-39-305(a) and (b), concerning the offense of criminal trespass on premises located in an unincorporated area, are amended to read as follows:

(a)(1) A person shall not purposely enter without written permission of the owner or lessee upon another person's premises located outside the boundary of any city or town if those premises are ~~either~~:

(A) Lawfully posted;

(B) Crop land or timber land; ~~or~~

(C) Enclosed with a fence sufficient under § 2-39-101 et seq.; or

(D) Critical infrastructure.

(2) The posting of premises is not a requirement under this section.

(b) Criminal trespass on premises located in an unincorporated area is a:

(1) Class D felony if:

(A) the ~~The~~ person has two (2) or more convictions for a Class A misdemeanor violation of this section or § 5-39-203; or

(B) The premises is critical infrastructure;

(2) Class A misdemeanor if:

(A) At the time of the criminal trespass on premises located in an unincorporated area, the person is in possession of one (1) or more of the following:

- (i) A killing device;
- (ii) A harvesting device;
- (iii) A device primarily used for the location and unearthing of buried or submerged artifacts; or
- (iv) A tool designed to gain entry into a structure by breaking a lock or breaking through a fence, including without limitation a boltcutter;

(B) The person is on premises containing a commercial fishing or fish breeding operation and at that time is in possession of a fishing pole or net designed to capture fish; or

(C) The person has a prior conviction for a violation of this section;

(3) Class B misdemeanor if:

- (A) The premises involved is an occupiable structure; or
- (B) The conduct involves the removal of a posted sign, a fence, or a portion of a fence as defined in § 2-39-102; or

(4) Violation with a fine not to exceed one hundred dollars (\$100) if otherwise committed.

/s/Gazaway

APPROVED: 4/14/21