

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 155

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO STRATEGIC FACILITIES; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 18-7045, IDAHO CODE, TO PROVIDE FOR
3 THE CRIME OF IMPEDING A STRATEGIC FACILITY, TO PROVIDE FOR THE CRIME OF
4 STRATEGIC FACILITY TRESPASS, TO PROVIDE PENALTIES, TO PROVIDE EXCEP-
5 TIONS, AND TO DEFINE TERMS; AND DECLARING AN EMERGENCY.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 70, Title 18, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 18-7045, Idaho Code, and to read as follows:

11 18-7045. STRATEGIC FACILITIES -- IMPEDING -- TRESPASSING.

12 (1) (a) A person is guilty of impeding a strategic facility if the person
13 knowingly and intentionally impedes the operations of a strategic fa-
14 cility in a manner not otherwise authorized by law. Impeding a strate-
15 gic facility shall be:

16 (i) A misdemeanor punishable by imprisonment in the county jail
17 for no more than six (6) months, a fine not to exceed ten thou-
18 sand dollars (\$10,000), or both, if the impediment causes damage
19 or economic loss, the cost of which is less than ten thousand dol-
20 lars (\$10,000); or

21 (ii) A felony punishable by imprisonment in the state peniten-
22 tary for no more than two (2) years, a fine not to exceed one
23 hundred thousand dollars (\$100,000), or both, if the impediment
24 causes damage or economic loss, the cost of which is ten thousand
25 dollars (\$10,000) or more.

26 (b) Fines imposed pursuant to the provisions of this subsection shall
27 meet but not exceed the cost of the damage caused or economic loss.

28 (2) A person is guilty of strategic facility trespass if the person
29 knowingly and intentionally enters or remains in a strategic facility or a
30 construction site of a strategic facility without permission of the owner
31 of the property or after notice is given to depart or not to trespass. For
32 purposes of this subsection, notice is given by:

33 (a) Personal communication to the person by the owner or legal occu-
34 pant, or his agent, or by a peace officer;

35 (b) Posting of no trespassing or no access signs reasonably likely to
36 come to the attention of intruders; or

37 (c) The presence of fencing or other physical barrier designed to ex-
38 clude intruders or unauthorized individuals.

39 (3) The penalties for strategic facility trespass shall be as follows:

40 (a) Any person who pleads guilty to or is found guilty of a violation
41 of subsection (2) of this section for the first time shall be guilty of
42 a misdemeanor punishable by imprisonment in the county jail for no more

1 than six (6) months, a fine not to exceed one thousand dollars (\$1,000),
2 or both; and

3 (b) Any person who pleads guilty to or is found guilty of a violation of
4 subsection (2) of this section for a second time within five (5) years
5 shall be guilty of a felony punishable by imprisonment in the state pen-
6 itentiary for no more than ten (10) years, a fine not to exceed twenty
7 thousand dollars (\$20,000), or both.

8 (4) If a series of impediments, damages, or losses results from a sin-
9 gular continuing course of conduct, as described pursuant to this section, a
10 single violation of subsection (1) or (2) of this section may be charged and
11 penalties imposed based on the aggregate cost of the damage or loss.

12 (5) No person shall be guilty of a violation of subsection (1) or (2) of
13 this section if such person:

14 (a) Owns or legally occupies the land on which the facility is located
15 and is engaged in conduct not inconsistent with the operation of the
16 strategic facility or that is authorized by an agreement;

17 (b) Is lawfully engaged in any legal or regulatory process to which the
18 strategic facility is subject; or

19 (c) Is engaged in conduct arising out of a bona fide dispute about ac-
20 cess to the land on which the facility is located. The exception pur-
21 suant to this paragraph shall only apply for a violation of subsection
22 (2) of this section.

23 (6) An individual or organization that aids, abets, solicits, compen-
24 sates, hires, conspires with, commands, or procures a person to commit the
25 crime of impeding a strategic facility or strategic facility trespass is
26 subject to a fine not to exceed one hundred thousand dollars (\$100,000),
27 provided that the individual or organization acted with the intent that the
28 crime of impeding a strategic facility or strategic facility trespass be
29 completed. A strategic facility may maintain a civil action against an indi-
30 vidual or organization for damages suffered as a consequence of a violation
31 of this section, including damages for lost profits, whether or not any fine
32 is imposed pursuant to this subsection.

33 (7) Nothing in this section shall be construed to apply to public demon-
34 strations or other expressions of free speech or free association on public
35 land to the extent that such activity is protected under the constitution of
36 the United States or the constitution of the state of Idaho.

37 (8) As used in this section:

38 (a) "Strategic facility" means:

39 (i) A petroleum or alumina refinery;

40 (ii) An electrical power generating facility, substation,
41 switching station, electrical control center, or electric power
42 lines and associated equipment infrastructure;

43 (iii) A chemical, polymer, or rubber manufacturing facility;

44 (iv) A water intake structure, water treatment facility, wastewa-
45 ter treatment plant, or pump station;

46 (v) A natural gas compressor station;

47 (vi) A liquid natural gas terminal or storage facility;

48 (vii) Wireline and wireless telecommunications infrastructure;

49 (viii) A port, railroad switching yard, trucking terminal, or
50 other freight transportation facility;

1 (ix) A gas processing plant, including a plant used in the pro-
2 cessing, treatment, or fractionation of natural gas or natural gas
3 liquids;

4 (x) A transmission facility used by a federally licensed radio or
5 television station;

6 (xi) A steelmaking facility that uses an electric arc furnace to
7 make steel;

8 (xii) A facility identified and regulated by the United States
9 department of homeland security chemical facility anti-terrorism
10 standards (CFATS) program;

11 (xiii) A dam or hydropower facility that is regulated by the state
12 or federal government;

13 (xiv) A natural gas distribution utility facility, including but
14 not limited to pipeline interconnections, a city gate or town
15 border station, metering station, below-ground or above-ground
16 pipeline or piping, and truck loading or offloading facility, a
17 natural gas storage facility, a natural gas transmission facil-
18 ity, or a natural gas utility distribution facility;

19 (xv) A crude oil or refined products storage and distribution fa-
20 cility, including but not limited to pipeline interconnections,
21 a valve site, pump station, metering station, below-ground or
22 above-ground pipeline or piping, and truck loading or offloading
23 facility;

24 (xvi) Military facilities, including national guard facilities
25 and equipment storage areas where non-military personnel are pro-
26 hibited;

27 (xvii) State and federal department of transportation facilities
28 and locations near or on roads or highways where the public is pro-
29 hibited;

30 (xviii) Any above-ground portion of an oil, gas, hazardous liq-
31 uid, or chemical pipeline, tank, or other storage facility that is
32 enclosed by a fence, other physical barrier, or is clearly marked
33 with signs prohibiting trespassing that are obviously designed to
34 exclude intruders;

35 (xix) A commercial service airport as defined by the federal avia-
36 tion administration;

37 (xx) Mining facilities, including extraction sites and refine-
38 ment facilities; and

39 (xxi) Seed and crop storage sites and facilities intended to hold
40 raw food or feed products before planting, following harvest, or
41 before processing, not including commercial food facilities gen-
42 erally open and available to the public.

43 (b) "Impede" means:

44 (i) To block the operation of or prevent legal access to a strate-
45 gic facility or the construction of a permitted strategic facil-
46 ity; or

47 (ii) To damage, destroy, deface, or tamper with the equipment of a
48 strategic facility or a permitted strategic facility.

1 (c) "Organization" means a partnership, corporation, joint stock com-
2 pany, or any other association or entity, public or private, other than
3 an individual.

4 SECTION 2. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after its
6 passage and approval.