

## Office of the Governor

March 14, 2018

The Honorable Eli Bebout  
President  
Wyoming State Senate  
3001 E. Pershing Blvd.  
Cheyenne, Wyoming 82001

Dear President Bebout,

Senate File 74 addresses what I believe is an important issue for Wyoming and the United States – protecting critical infrastructure and allowing critical infrastructure to be built. This is important to our economy and many of our jobs, but it is also directly related to safety and security. I was disappointed when I received the bill, because in my view, the bill despite the hard work of many, is flawed.

Some of my specific concerns are that the bill creates new crimes for activities already covered by other criminal statutes, but does not cover activities such as critical infrastructure facility construction. The definition section 6-1-104 is broad and draws in critical, but also unfortunately, ordinary facilities. The inclusion of any fenced dam that supplies irrigation or other fenced storage facility is problematic as there are thousands of these in Wyoming on ranches, farms and elsewhere. Ranchers and farmers have hay barns and irrigation dams, and property owners among others have storage sheds. These examples reflect a bill imprecisely crafted, a bill that needs additional work. These flaws can hinder this important effort.

The bill contains criminal provisions and I feel I must exercise my veto authority with hope the Legislature will make another attempt at this important legislation making it an interim topic in preparation for next session.

Sincerely,



Matthew H. Mead  
Governor

MHM:dp

cc: The Honorable Edward Buchanan, Secretary of State  
The Honorable Steve Harshman, Speaker of the House  
✓ Chief Clerk, Wyoming Senate  
Chief Clerk, Wyoming House of Representatives

ENROLLED ACT NO. 65, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
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AN ACT relating to crimes and offenses; creating crimes relating to critical infrastructure; specifying elements; providing penalties; providing definitions; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 6-3-205 and 6-3-308 are created to read:

**6-3-205. Impeding critical infrastructure.**

(a) A person is guilty of impeding critical infrastructure if he intentionally or knowingly impedes the operations of a critical infrastructure facility, including by damaging, destroying, defacing or tampering with the equipment of a facility which cumulatively results in damage of less than one thousand dollars (\$1,000.00). A person violating this subsection is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than one thousand dollars (\$1,000.00), or both.

(b) A person is guilty of damaging critical infrastructure if he intentionally or knowingly damages, destroys, defaces or tampers with the equipment of a critical infrastructure facility, cumulatively resulting in damage of one thousand dollars (\$1,000.00) or more. A person violating this subsection is guilty of a felony punishable by imprisonment for not more than ten (10) years, a fine of not more than ten thousand dollars (\$10,000.00), or both.

(c) An organization that aids, abets, solicits, compensates, conspires, commands or procures a person to

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commit the crime of impeding critical infrastructure or damaging critical infrastructure is subject to a fine not to exceed one hundred thousand dollars (\$100,000.00). An organization is subject to civil liability for violating this subsection and a critical infrastructure facility may recover actual and consequential damages relating to the violation, whether or not any fine is imposed pursuant to this subsection.

(d) Nothing in this section shall be construed to apply to public demonstrations or other expressions of free speech and association protected under the United States and Wyoming constitutions, but only to the extent that such activity constitutes protected speech under the Wyoming and United States constitutions.

(e) No person shall be liable for a violation of subsection (a) or (b) of this section if the person:

(i) Owns or legally occupies the land upon which the facility is located while engaged in conduct not inconsistent with the operation of the critical infrastructure facility, or as otherwise authorized by an agreement; or

(ii) Is lawfully engaged in any regulatory or legal process to which the critical infrastructure facility is subject.

(f) As used in this section:

(i) "Critical infrastructure facility" means as defined in W.S. 6-1-104(a) (xvii);

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(ii) "Impedes" means to block or prevent legal access to, and operation of, a facility or structure in a manner not authorized by law;

(iii) "Organization" means a person, as defined in W.S. 6-1-104(a)(vii), other than an individual;

(iv) "Tamper or tampering" includes to pollute, poison or change the chemical characteristic of any contained liquid or gas within a storage reservoir, tank or pipeline.

(g) This section shall not apply to actions arising out of a bona fide dispute about access to land that grows out of an existing contract.

**6-3-308. Critical infrastructure trespass.**

(a) A person is guilty of critical infrastructure trespass if he enters or remains on or in a critical infrastructure facility knowing he is not authorized to do so or after being notified to depart or to not trespass. For purposes of this section, notice is given by:

(i) Personal communication to the person by the owner or occupant, or his agent, or by a peace officer;

(ii) Posting of signs reasonably likely to come to the attention of intruders; or

(iii) Fencing or other physical barriers designed to exclude intruders.

(b) Critical infrastructure trespass is a misdemeanor punishable by imprisonment for not more than one (1) year,

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a fine of not more than one thousand dollars (\$1,000.00), or both.

(c) No person shall be liable for a violation of subsection (a) of this section if the person:

(i) Owns or legally occupies the land upon which the facility is located while engaged in conduct not inconsistent with the operation of the critical infrastructure facility, or as otherwise authorized by an agreement; or

(ii) Is lawfully engaged in any regulatory or legal process to which the critical infrastructure facility is subject.

(d) As used in this section:

(i) "Critical infrastructure facility" means as defined in W.S. 6-1-104(a)(xvii);

(ii) "Impedes" means to block or prevent legal access to or operation of a critical infrastructure facility in a manner not authorized by law;

(iii) "Organization" means a person, as defined in W.S. 6-1-104(a)(vii), other than an individual.

**Section 2.** W.S. 6-1-104(a) by creating a new paragraph (xvii) and by renumbering (xvii) as (xviii) is amended to read:

**6-1-104. Definitions.**

(a) As used in this act, unless otherwise defined:

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(xvii) "Critical infrastructure facility" means:

(A) Any aboveground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility that is fenced pursuant to W.S. 37-9-304(a) 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; or

(B) One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

(I) A petroleum or alumina refinery;

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

(III) A chemical, polymer or rubber manufacturing facility;

(IV) A water intake structure, water treatment facility, wastewater treatment plant or pump station;

(V) A natural gas compressor station;

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(VI) A liquid natural gas terminal or storage facility;

(VII) A telecommunications central switching office;

(VIII) Wireless telecommunications infrastructure, including cell towers, telephone poles and lines, including fiber optic lines;

(IX) A port, railroad switching yard or railroad track that is fenced pursuant to W.S. 37-9-304(a), trucking terminal or other freight transportation facility;

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

(XI) A transmission facility used by a federally licensed radio or television station;

(XII) A steelmaking facility that uses an electric arc furnace to make steel;

(XIII) A facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program;

(XIV) Any dam that supplies irrigation, industrial or municipal water supplies;

(XV) A natural gas distribution utility facility, including transmission facilities,

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pipeline interconnections, a city gate or town border stations, metering stations, aboveground piping, a regulator station and a natural gas storage facility;

(XVI) A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump stations, metering stations, aboveground or underground pipelines or piping and truck loading or offloading facilities;

(XVII) An aboveground or underground mining facility;

(XVIII) A data center or supercomputing center;

(XIX) Cable television infrastructure, including head ends, poles, cable television lines, coaxial and fiber optic lines and other equipment attached to cable television lines; or

(XX) A large water diversion structure or large water transmission infrastructure.

~~(xvii)~~(xviii) "This act" means title 6 of the Wyoming statutes.



ORIGINAL SENATE  
FILE NO. SF0074


ENGROSSED

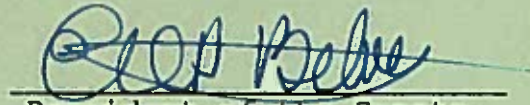
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**Section 3.** This act is effective July 1, 2018.

(END)

  
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Speaker of the House

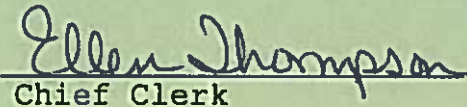
  
\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

  
\_\_\_\_\_  
Chief Clerk