

1-1 By: Shaheen (Senate Sponsor - King) H.B. No. 1833  
1-2 (In the Senate - Received from the House May 8, 2023;  
1-3 May 9, 2023, read first time and referred to Committee on Criminal  
1-4 Justice; May 21, 2023, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Flores	X		
1-11	Bettencourt	X		
1-12	Hinojosa	X		
1-13	Huffman	X		
1-14	King	X		
1-15	Miles	X		

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 1833 By: Flores

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to increasing the criminal penalty for the offense of  
1-20 criminal mischief involving a critical infrastructure facility or  
1-21 public power supply.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 28.03, Penal Code, is amended by  
1-24 amending Subsection (b) and adding Subsection (l) to read as  
1-25 follows:

1-26 (b) Except as provided by Subsections (f), ~~and~~ (h), and  
1-27 (l), an offense under this section is:

1-28 (1) a Class C misdemeanor if:

1-29 (A) the amount of pecuniary loss is less than  
1-30 \$100; or

1-31 (B) except as provided in Subdivision (3)(A) or  
1-32 (3)(B), it causes substantial inconvenience to others;

1-33 (2) a Class B misdemeanor if the amount of pecuniary  
1-34 loss is \$100 or more but less than \$750;

1-35 (3) a Class A misdemeanor if:

1-36 (A) the amount of pecuniary loss is \$750 or more  
1-37 but less than \$2,500; or

1-38 (B) the actor causes in whole or in part  
1-39 impairment or interruption of any public water supply, or causes to  
1-40 be diverted in whole, in part, or in any manner, including  
1-41 installation or removal of any device for any such purpose, any  
1-42 public water supply, regardless of the amount of the pecuniary  
1-43 loss;

1-44 (4) a state jail felony if the amount of pecuniary loss  
1-45 is:

1-46 (A) \$2,500 or more but less than \$30,000;

1-47 (B) less than \$2,500, if the property damaged or  
1-48 destroyed is a habitation and if the damage or destruction is caused  
1-49 by a firearm or explosive weapon;

1-50 (C) less than \$2,500, if the property was a fence  
1-51 used for the production or containment of:

1-52 (i) cattle, bison, horses, sheep, swine,  
1-53 goats, exotic livestock, or exotic poultry; or

1-54 (ii) game animals as that term is defined by  
1-55 Section 63.001, Parks and Wildlife Code; or

1-56 (D) less than \$30,000 and the actor:

1-57 (i) causes wholly or partly impairment or  
1-58 interruption of property used for flood control purposes or a dam or  
1-59 of public communications, public transportation, public gas [~~or~~  
1-60 ~~power~~] supply, or other public service; or

2-1 (ii) causes to be diverted wholly, partly,  
2-2 or in any manner, including installation or removal of any device  
2-3 for any such purpose, any public communications or public gas [~~or~~  
2-4 ~~power~~] supply;

2-5 (5) a felony of the third degree if:  
2-6 (A) the amount of the pecuniary loss is \$30,000  
2-7 or more but less than \$150,000;

2-8 (B) the actor, by discharging a firearm or other  
2-9 weapon or by any other means, causes the death of one or more head of  
2-10 cattle or bison or one or more horses; [~~or~~]

2-11 (C) the actor causes wholly or partly impairment  
2-12 or interruption of access to an automated teller machine,  
2-13 regardless of the amount of the pecuniary loss; or

2-14 (D) the amount of pecuniary loss is less than  
2-15 \$150,000 and the actor:

2-16 (i) causes wholly or partly impairment of a  
2-17 critical infrastructure facility or interruption of the operations  
2-18 of a critical infrastructure facility; or

2-19 (ii) causes to be diverted wholly, partly,  
2-20 or in any manner, including installation or removal of any device  
2-21 for any such purpose, any public power supply;

2-22 (6) a felony of the second degree if the amount of  
2-23 pecuniary loss is \$150,000 or more but less than \$300,000; or

2-24 (7) a felony of the first degree if the amount of  
2-25 pecuniary loss is \$300,000 or more.

2-26 (1) An offense under this section is:

2-27 (1) a felony of the second degree if:

2-28 (A) the tangible property damaged, destroyed, or  
2-29 tampered with is a critical infrastructure facility; and

2-30 (B) the actor causes an extended power outage; or

2-31 (2) a felony of the first degree if:

2-32 (A) the tangible property damaged, destroyed, or  
2-33 tampered with is a critical infrastructure facility;

2-34 (B) the actor causes an extended power outage;

2-35 and

2-36 (C) either:

2-37 (i) the amount of pecuniary damage to the  
2-38 critical infrastructure facility is \$100,000 or more; or

2-39 (ii) the actor uses a firearm, drone, cyber  
2-40 attack, or explosive weapon in the commission of the offense.

2-41 SECTION 2. Section 28.03(g), Penal Code, is amended by  
2-42 adding Subdivisions (10), (11), (12), and (13) to read as follows:

2-43 (10) "Critical infrastructure facility" means an  
2-44 electrical power generating facility, substation, switching  
2-45 station, electrical control center, or electrical transmission or  
2-46 distribution facility.

2-47 (11) "Cyber attack" means an attempt to damage,  
2-48 disrupt, or gain unauthorized access to a computer, computer  
2-49 network, or computer system.

2-50 (12) "Drone" has the meaning assigned by Article 2.33,  
2-51 Code of Criminal Procedure, as added by Chapter 1011 (H.B. 1758),  
2-52 Acts of the 87th Legislature, Regular Session, 2021.

2-53 (13) "Extended power outage" means a power outage:

2-54 (A) lasting for two hours or more; or

2-55 (B) affecting 1,000 or more meters used to  
2-56 measure electric energy consumption by retail customers.

2-57 SECTION 3. The change in law made by this Act applies only  
2-58 to an offense committed on or after the effective date of this Act.  
2-59 An offense committed before the effective date of this Act is  
2-60 governed by the law in effect on the date the offense was committed,  
2-61 and the former law is continued in effect for that purpose. For  
2-62 purposes of this section, an offense was committed before the  
2-63 effective date of this Act if any element of the offense occurred  
2-64 before that date.

2-65 SECTION 4. This Act takes effect September 1, 2023.

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