

House Bill 2003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

SECTION __. Section 33.01, Penal Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Critical infrastructure facility" means:

(A) a chemical manufacturing facility;

(B) a refinery;

(C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;

(D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(E) a natural gas transmission compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a facility owned or operated by a telecommunications provider, as defined by Section 51.002, Utilities Code, including a telecommunications central switching office;

(H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

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

(J) a transmission facility used by a federally licensed radio or television station.

(K) a cable television or video service provider headend.

No equivalent provision.

SECTION __. Section 33.02, Penal Code, is amended by amending Subsections (b) and (d) and adding Subsections (b-1) and (b-2) to read as follows:

(b) An offense under Subsection (a) [~~this section~~] is a

House Bill 2003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

Class B misdemeanor, except that the offense is a state jail felony if:

(1) the defendant has been previously convicted two or more times of an offense under this chapter; or

(2) the computer, computer network, or computer system is owned by the government or a critical infrastructure facility.

(b-1) A person commits an offense if with the intent to obtain [unless in committing the offense the actor knowingly obtains] a benefit, defraud [defrauds] or harm [harms] another, or alter [alters], damage [damages], or delete [deletes] property, the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.

(b-2) An offense under Subsection (b-1) [in which event the offense] is:

(1) [a Class A misdemeanor if the aggregate amount involved is less than \$1,500;

[2] a state jail felony if:

[A] the aggregate amount involved is [\$1,500 or more but] less than \$20,000[; or

[B] the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];

(2) [(3)] a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;

(3) [(4)] a felony of the second degree if:

(A) the aggregate amount involved is \$100,000 or more

House Bill 2003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

but less than \$200,000; or
(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or
(4) [(5)] a felony of the first degree if the aggregate amount involved is \$200,000 or more.
(d) A person who is [~~his~~] subject to prosecution under this section and any other section of this code may be prosecuted under either or both sections.

No equivalent provision.

SECTION __. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 1. Chapter 33, Penal Code, is amended by adding Section 33.07 to read as follows:
Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social

SECTION 1. Chapter 33, Penal Code, is amended by adding Section 33.07 to read as follows:
Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social

House Bill 2003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

networking site:

(1) without obtaining the other person's consent; and
(2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

(1) without obtaining the other person's consent;
(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and
(3) with the intent to harm or defraud any person.

(c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(e) It is a defense to prosecution under this section that

the actor's conduct consisted solely of action taken as an employee of:

(1) a commercial social networking site;
(2) an Internet service provider;

SENATE VERSION

networking site:

(1) without obtaining the other person's consent; and
(2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

(1) without obtaining the other person's consent;
(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and
(3) with the intent to harm or defraud any person.

(c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(e) It is a defense to prosecution under this section **that the actor is any of the following entities or that the actor's conduct consisted solely of action taken as an employee of any of the following entities:**

(1) a commercial social networking site;
(2) an Internet service provider;

CONFERENCE

House Bill 2003
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(3) an interactive computer service, as defined by 47 U.S.C. Section 230;

(4) a telecommunications provider, as defined by Section 51.002, Utilities Code; or

(5) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code.

(f) In this section:

(1) "Commercial social networking site" means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program or a message board program.

(2) "Identifying information" has the meaning assigned by Section 32.51.

SECTION 2. This Act takes effect September 1, 2009.

SENATE VERSION

(3) an interactive computer service, as defined by 47 U.S.C. Section 230;

(4) a telecommunications provider, as defined by Section 51.002, Utilities Code; or

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(2) "Identifying information" has the meaning assigned by Section 32.51.

Same as House version.

CONFERENCE