SENATE BILL No. 172

By Committee on Utilities

AN ACT concerning crimes, punishment and criminal procedure; creating
the crimes of trespassing on a critical infrastructure facility and
criminal damage to a critical infrastructure facility; eliminating the
crime of tampering with a pipeline; amending K.S.A. 2020 Supp. 21-
5818 and 21-6328 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2020 Supp. 21-5818 is hereby amended to read as
follows: 21-5818. (a) Tampering with a pipeline is the knowing and
unauthorized alteration of or interference with any part of a pipeline.
Trespassing on a critical infrastructure facility is, without consent of the
owner or the owner’s agent, knowingly entering or remaining in:
(1) A critical infrastructure facility; or
(2) any property containing a critical infrastructure facility, if such
property is completely enclosed by a fence or other physical barrier that is
obviously designed to exclude intruders or is clearly marked with a sign or
signs that are posted on the property that are reasonably likely to come to
the attention of intruders and indicate that entry is forbidden without site
authorization.
(b) Tampering with a pipeline is a severity level 6, nonperson felony.
Aggravated trespassing on a critical infrastructure facility is:
(1) Knowingly entering or remaining in:
(A) A critical infrastructure facility; or
(B) any property containing a critical infrastructure facility, if such
property is completely enclosed by a fence or other physical barrier that is
obviously designed to exclude intruders or is clearly marked with a sign or
signs that are posted on the property that are reasonably likely to come to
the attention of intruders and indicate that entry is forbidden without site
authorization; and
(2) with the intent to damage, destroy, vandalize, deface or tamper
with a critical infrastructure facility or impede or inhibit operations of the
facility.
(c) Criminal damage to a critical infrastructure facility is knowingly
damaging, destroying, vandalizing, defacing or tampering with a critical
infrastructure facility.
(d) Aggravated criminal damage to a critical infrastructure facility is
knowingly damaging, destroying, vandalizing, defacing or tampering with
a critical infrastructure facility with the intent to impede or inhibit
operations of the facility.
(e) (1) Trespassing on a critical infrastructure facility is a class A
nonperson misdemeanor.
(2) Aggravated trespassing on a critical infrastructure facility is a
severity level 7, nonperson felony.
(3) Criminal damage to a critical infrastructure facility is a severity
level 6, nonperson felony.
(4) Aggravated criminal damage to a critical infrastructure facility is
a severity level 5, nonperson felony.
(f) (1) Any person who is arrested for a violation of this section or
convicted under this section may be held liable for any damages to
personal or real property. Any person or entity that provides consideration
or remuneration to a person to commit an act as described in this section
may also be held liable for any damages to personal or real property
caused by such person.
(2) In determining the amount of damage to property, damages may
include:
(A) The cost of repair or replacement of the property that was
damaged;
(B) the reasonable cost of the loss of production, crops and livestock;
(C) reasonable labor costs of any kind;
(D) reasonable material costs of any kind; and
(E) any reasonable costs that are attributed to equipment that is used
to abate or repair the damage to the property.
(g) A person who violates the provisions of this section may also be
prosecuted for, convicted of and punished for any other offense in article
58 of chapter 21 of the Kansas Statutes Annotated, and amendments
thereto, or K.S.A. 66-2303, and amendments thereto.
(h) As used in this section-
(1) "Alteration of or interference with any part of a pipeline"
includes, but is not limited to, any adjustment, opening, removal, change
or destruction of any part of any pipeline; and
(2) "pipeline" means any pipeline, and any related facility, building,
structure or equipment, used in gathering, transmission or transportation of
natural gas, crude oil, petroleum products or anhydrous ammonia.
"Pipeline" does not include distribution lines that convey natural gas from
a gas main to the ultimate consumer. "critical infrastructure facility"
means a:
(1) Petroleum or alumina refinery;
(2) facility generating electrical power, substation, switching station,
electrical control center, electric power lines, including lines used for the
transmission of electricity, or associated equipment infrastructure;

(3) chemical, polymer or rubber manufacturing facility;

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

(5) natural gas compressor station;

(6) liquid natural gas or propane terminal or storage facility;

(7) facility that is used for wireline, broadband or wireless telecommunications infrastructure, including backup power supplies;

(8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;

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

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

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

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

(13) dam that is regulated by the state or federal government;

(14) natural gas distribution utility facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;

(15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or

(16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

Sec. 2. K.S.A. 2020 Supp. 21-6328 is hereby amended to read as follows: 21-6328. As used in the Kansas racketeer influenced and corrupt organization act:

(a) (1) "Beneficial interest" means:

(1) (A) The interest of a person as a beneficiary under any trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(2) (B) the interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

water diversion, production, treatment, storage and distribution facilities and appurtenances, including, but not limited to, underground pipelines
(2) The term "beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(b) "Covered person" means any person who:

(1) Is a criminal street gang member or criminal street gang associate, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto;

(2) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5426, and amendments thereto, human trafficking or aggravated human trafficking, or K.S.A. 2020 Supp. 21-6422, and amendments thereto, commercial sexual exploitation of a child; or

(3) has engaged in or is engaging in any conduct prohibited by K.S.A. 2020 Supp. 21-5703, and amendments thereto, unlawful manufacturing of controlled substances, or K.S.A. 2020 Supp. 21-5705, and amendments thereto, unlawful cultivation or distribution of controlled substances.

(c) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(d) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal street gang, as defined in K.S.A. 2020 Supp. 21-6313, and amendments thereto, constitutes an enterprise.

(e) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within § five years, excluding any period of imprisonment, after a prior incident of racketeering activity.

(f) "Racketeering activity" means to commit, attempt to commit, conspire to commit or to solicit, coerce or intimidate another person to commit:

(1) Any felony or misdemeanor violation of: The felony provisions of K.S.A. 8-1568, and amendments thereto, fleeing or attempting to elude a police officer; K.S.A. 9-508 et seq., and amendments thereto, Kansas money transmitter act; article 12a of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, Kansas uniform securities act; K.S.A.
2020 Supp. 21-5401, and amendments thereto, capital murder; K.S.A.
2020 Supp. 21-5402, and amendments thereto, murder in the first degree;
K.S.A. 2020 Supp. 21-5403, and amendments thereto, murder in the
second degree; K.S.A. 2020 Supp. 21-5408, and amendments thereto,
kidnapping or aggravated kidnapping; K.S.A. 2020 Supp. 21-5412, and
amendments thereto; K.S.A. 2020 Supp. 21-5413, and amendments
thereto; K.S.A. 2020 Supp. 21-5414, and amendments thereto, domestic
battery; K.S.A. 2020 Supp. 21-5415, and amendments thereto, criminal
threat or aggravated criminal threat; K.S.A. 2020 Supp. 21-5420, and
amendments thereto, robbery or aggravated robbery; K.S.A. 2020 Supp.
21-5421, and amendments thereto, terrorism; K.S.A. 2020 Supp. 21-5422,
and amendments thereto, illegal use of weapons of mass destruction;
21-5426, and amendments thereto, human trafficking or aggravated human
trafficking; K.S.A. 2020 Supp. 21-5428, and amendments thereto,
blackmail; K.S.A. 2020 Supp. 21-5510, and amendments thereto, sexual
exploitation of a child; K.S.A. 2020 Supp. 21-5601, and amendments
thereto, endangering a child or aggravated endangering a child; K.S.A.
2020 Supp. 21-5602, and amendments thereto, abuse of a child; K.S.A.
2020 Supp. 21-5603, and amendments thereto, contributing to a child's
misconduct or deprivation; K.S.A. 2020 Supp. 21-5607(b), and
amendments thereto, furnishing alcoholic beverages to a minor for illicit
purposes; article 57 of chapter 21 of the Kansas Statutes Annotated, and
amendments thereto, crimes involving controlled substances; K.S.A. 2020
Supp. 21-5801, and amendments thereto, theft; K.S.A. 2020 Supp. 21-
5803, and amendments thereto, criminal deprivation of property; K.S.A.
2020 Supp. 21-5805, and amendments thereto; K.S.A. 2020 Supp. 21-
5807, and amendments thereto, burglary oragravated burglary; K.S.A.
2020 Supp. 21-5812, and amendments thereto, arson oragravated arson;
K.S.A. 2020 Supp. 21-5813, and amendments thereto, criminal damage to
property; K.S.A. 2020 Supp. 21-5814, and amendments thereto, criminal
use of an explosive; K.S.A. 2020 Supp. 21-5818, and amendments thereto,
tampering with a pipeline; trespassing on a critical infrastructure facility;
agravated trespassing on a critical infrastructure facility; criminal
damage to a critical infrastructure facility oragravated criminal damage
to a critical infrastructure facility; K.S.A. 2020 Supp. 21-5821, and
amendments thereto, giving a worthless check; K.S.A. 2020 Supp. 21-
5823, and amendments thereto, forgery; K.S.A. 2020 Supp. 21-5824, and
amendments thereto, making false information; K.S.A. 2020 Supp. 21-
5825, and amendments thereto, counterfeiting; K.S.A. 2020 Supp. 21-
5826, and amendments thereto, destroying written instrument; K.S.A.
2020 Supp. 21-5828, and amendments thereto, criminal use of a financial
card; K.S.A. 2020 Supp. 21-5838, and amendments thereto, conducting a
pyramid promotional scheme; K.S.A. 2020 Supp. 21-5839, and
amendments thereto; K.S.A. 2020 Supp. 21-5903, and amendments
thereto, perjury; K.S.A. 2020 Supp. 21-5904, and amendments thereto,
interference with law enforcement; K.S.A. 2020 Supp. 21-5905, and
amendments thereto, interference with the judicial process; K.S.A. 2020
Supp. 21-5909, and amendments thereto, intimidation of a witness or
victim or aggravated intimidation of a witness or victim; K.S.A. 2020
Supp. 21-5912, and amendments thereto, aiding escape; K.S.A. 2020
Supp. 21-5913, and amendments thereto, obstructing apprehension or
prosecution; K.S.A. 2020 Supp. 21-5918, and amendments thereto; K.S.A.
21-6301, and amendments thereto, criminal use of weapons; K.S.A. 2020
Supp. 21-6302, and amendments thereto, criminal carrying of a weapon;
K.S.A. 2020 Supp. 21-6303, and amendments thereto, criminal
distribution of firearms to a felon; K.S.A. 2020 Supp. 21-6304, and
amendments thereto, criminal possession of a firearm by a convicted felon;
K.S.A. 2020 Supp. 21-6305, and amendments thereto, aggravated weapons
violation by a convicted felon; K.S.A. 2020 Supp. 21-6306, and
amendments thereto, defacing identification marks of a firearm; K.S.A.
2020 Supp. 21-6308, and amendments thereto, criminal discharge of a
firearm; K.S.A. 2020 Supp. 21-6310, and amendments thereto, unlawful
endangerment; K.S.A. 2020 Supp. 21-6312, and amendments thereto;
K.S.A. 2020 Supp. 21-6314, and amendments thereto, recruiting criminal
street gang membership; K.S.A. 2020 Supp. 21-6315, and amendments
thereto, criminal street gang intimidation; K.S.A. 2020 Supp. 21-6401,
and amendments thereto, promoting obscenity or promoting obscenity to
minors; K.S.A. 2020 Supp. 21-6404, and amendments thereto, gambling;
K.S.A. 2020 Supp. 21-6405, and amendments thereto, illegal bingo
operation; K.S.A. 2020 Supp. 21-6406, and amendments thereto,
commercial gambling; K.S.A. 2020 Supp. 21-6407, and amendments
thereto, dealing in gambling devices; K.S.A. 2020 Supp. 21-6408, and
amendments thereto; K.S.A. 2020 Supp. 21-6409, and amendments
thereto, installing communication facilities for gamblers; K.S.A. 2020
Supp. 21-6414(a) or (b), and amendments thereto, unlawful conduct of
dog fighting or unlawful possession of dog fighting paraphernalia; K.S.A. 2020
Supp. 21-6417(a) or (b), and amendments thereto, unlawful conduct of
cockfighting or unlawful possession of cockfighting paraphernalia; K.S.A.
2020 Supp. 21-6419, and amendments thereto, selling sexual relations;
K.S.A. 2020 Supp. 21-6420, and amendments thereto, promoting the sale
of sexual relations; K.S.A. 2020 Supp. 21-6422, and amendments thereto,
commercial sexual exploitation of a child; K.S.A. 2020 Supp. 21-6501,
and amendments thereto, extortion; K.S.A. 2020 Supp. 21-6502, and
amendments thereto, debt adjusting; K.S.A. 2020 Supp. 21-6504, and
amendments thereto, equity skimming; K.S.A. 2020 Supp. 21-6506, and
amendments thereto, commercial bribery; K.S.A. 2020 Supp. 21-6507, and
amendments thereto, sports bribery; K.S.A. 2020 Supp. 21-6508, and
amendments thereto, tampering with a sports contest; K.S.A. 39-720, and
amendments thereto, social welfare service fraud; K.S.A. 40-2,118, and
amendments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and
amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and
amendments thereto, workers' compensation act; K.S.A. 65-1657, and
amendments thereto, nonresident pharmacy registration; K.S.A. 65-3441,
and amendments thereto, hazardous waste; K.S.A. 65-4167, and
amendments thereto, trafficking in counterfeit drugs; article 88 of chapter
74 of the Kansas Statutes Annotated, and amendments thereto, Kansas
parimutuel racing act; or K.S.A. 79-3321, and amendments thereto,
Kansas cigarette and tobacco products act; or
(2) any conduct defined as "racketeering activity" under 18 U.S.C. §
1961(1).
(g) "Real property" means any real property or any interest in such
real property, including, but not limited to, any lease of or mortgage upon
such real property.
(h) (1) "Trustee" means:
(1)(A) Any person acting as trustee pursuant to a trust in which the
trustee holds legal or record title to real property;
(2)(B) any person who holds legal or record title to real property in
which any other person has a beneficial interest; or
(3)(C) any successor trustee or trustees to any or all of the foregoing
persons.
(2) The term "trustee" does not include any person appointed or
acting as a personal representative as defined in K.S.A. 59-102, and
amendments thereto, or appointed or acting as a trustee of any
testamentary trust or as a trustee of any indenture of trust under which any
bonds have been or are to be issued.
(i) "Unlawful debt" means any money or other thing of value
constituting principal or interest of a debt that is legally unenforceable in
this state in whole or in part because the debt was incurred or contracted:
(1) In violation of any of the following provisions of law: Article 88
of chapter 74 of the Kansas Statutes Annotated, and amendments thereto,
Kansas parimutuel racing act; K.S.A. 2020 Supp. 21-6404, and
amendments thereto, gambling; K.S.A. 2020 Supp. 21-6405, and
amendments thereto, illegal bingo operation; K.S.A. 2020 Supp. 21-6406,
and amendments thereto, commercial gambling; K.S.A. 2020 Supp. 21-
6407, and amendments thereto, dealing in gambling devices; K.S.A. 2020
Supp. 21-6408, and amendments thereto, unlawful possession of a
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1 gambling device; or K.S.A. 2020 Supp. 21-6409, and amendments thereto,
2 installing communication facilities for gamblers; or
3    (2) in gambling activity in violation of federal law or in the business
4 of lending money at a rate usurious under state or federal law.
5    Sec. 3. K.S.A. 2020 Supp. 21-5818 and 21-6328 are hereby repealed.
6    Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.