



SENATE BILL 58: Protect Critical Infrastructure.

2023-2024 General Assembly

Committee:		Date:	June 15, 2023
Introduced by:	Sens. McInnis, Britt, P. Newton	Prepared by:	Jennifer McGinnis
Analysis of:	Fifth Edition		Staff Attorney

OVERVIEW: Senate Bill 58 would:

- *Update and consolidate existing statutes that relate to damage to utility property (electric, gas, and telecommunications).*
- *Increase penalties for acts of damage to energy facilities.*
- *Increase the penalty for trespass to energy facilities, and add a specific prohibition on trespass to wastewater treatment facilities.*
- *Increase the penalty for willful injury to wires and other fixtures of telephone, broadband, broadcast, or cable telecommunications.*

CURRENT LAW:

State law currently includes a number of statutes that address damage to various public utilities, including electric, gas, telecommunications, and water utilities, which are generally punishable as misdemeanors or Class H or I felonies (with few exceptions):

- [§ 14-151. Interfering with gas, electric, and steam appliances or meters; penalties.](#)
- [§ 14-152. Injuring fixtures and other property of gas companies; civil liability.](#)
- [§14-154. Injuring wires and other fixtures of telephone, telegraph, and electric-power companies.](#)
- [§ 14-155. Unauthorized connections with telephone or telegraph.](#)
- [§ 14-156. Injuring fixtures and other property of electric-power companies.](#)
- [§ 14-157. Felling trees on telephone and electric-power wires.](#)
- [§ 14-158. Interfering with telephone lines.](#)
- [§ 14-159.1. Contaminating a public water system.](#)
- [§ 14-159.12. First degree trespass.](#)
- [§ 62-323. Willful injury to property of public utility a misdemeanor.](#)
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Federal law governing damage to various public utilities includes the following provisions:

- [18 U.S. Code § 1366 - Destruction of an energy facility](#)
- [42 U.S. Code § 300i-1 - Tampering with public water systems](#)
- [18 U.S. Code § 1362 - Communication lines, stations or systems](#)

BILL ANALYSIS: Senate Bill 58 would consolidate and update the existing statutes that govern injury to electric, gas, and telecommunications infrastructure, and increase applicable penalties for those offenses.

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Section 1 would create a new statute making it a Class C felony¹ to knowingly and willfully destroy, injure, or otherwise damage, or attempt to destroy, injure, or otherwise damage, an energy facility. If the conduct results in the death of another, however, the offense would be punishable as a Class B2 felony.

The term "energy facility" would be defined as "any facility involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities related thereto, regardless of whether the facility is under construction or is otherwise not functioning. This term includes any line, wire, pipe, other property or equipment used as part of the normal operation of the facility, and hardware, software, or other digital infrastructure necessary for the operations of a facility.

The statute would also:

- Impose a \$250,000 penalty for violation of the statute.
- Authorize any person injured by reason of damage to an energy facility to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.

Section 1.5 would exempt punitive damages that may be recovered from a person committing damage to an energy facility from the cap on such damages established under [G.S. 1D-25](#) (three times the amount of compensatory damages or \$250,000, whichever is greater).

Section 2 would amend the statute governing first degree trespass to:

- Repeal existing language referencing electric and natural gas facilities, and replace with a new definition for "energy facilities."
- Increase the applicable penalty for trespass on such facilities to a Class I felony² (from a Class A1 misdemeanor). If the trespass is committed with the intent to disrupt the normal operation of energy facilities, or places the offender or others on the premises at risk of serious bodily injury, however, it is punishable as a Class G felony³ (from a Class H felony).
- Add a specific prohibition on trespass to wastewater treatment facilities.

Section 3 would amend the statute governing willful injury to wires and other fixtures of telephone, telegraph, cable telecommunications, and electric power companies to:

- Eliminate outdated references to "telegraph."
- Eliminate references to electric equipment, as such damage would be covered under the statute to be created under Section 1 of the bill.
- Specifically reference "broadcast" and "broadband."
- Increase the applicable penalty to a Class C felony (from a Class I felony).

¹ The presumptive range of punishment for a Class C felony, assuming no prior convictions, is incarceration for a period ranging between 58–73 months (see information on punishment for the various classes of felonies (and misdemeanors) [here](#)); the aggravated range of punishment is incarceration for a period range of 73-92 months.

² The presumptive range of punishment for a Class I felony, assuming no prior convictions, is 4-6 months of community punishment.

³ The presumptive range of punishment for a Class G felony, assuming no prior convictions, is 10-13 months of intermediate or active punishment.

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Section 4 would repeal two statutes governing injury to property of gas and electric power companies, as such damage would be covered under the statute to be created under Section 1 of the bill.

EFFECTIVE DATE: This bill would become effective December 1, 2023, and apply to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of the bill would not be abated or affected by the bill, and the statutes that would be applicable but for this bill remain applicable to those prosecutions.⁴

⁴ Ex post facto provisions of the Constitution of the United States and the North Carolina Constitution prohibit, among other things, increasing the punishment for crimes previously committed.