



SENATE BILL 58: Protect Critical Infrastructure.

2023-2024 General Assembly

Committee:	Date:	December 5, 2023
Introduced by:	Prepared by:	Jennifer McGinnis Staff Attorney
Analysis of:	S.L. 2023-47	

OVERVIEW: *S.L. 2023-47 does the following:*

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

This act became effective December 1, 2023, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of the act are not abated or affected by the act, and the statutes that would have been applicable but for the changes made by the act remain applicable to those prosecutions.

BACKGROUND:

Prior to enactment of S.L. 2023-47, the statutes include a number of provisions that addressed damage to various public utilities, including electric, gas, telecommunications, and water utilities, which were 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](#)

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BILL ANALYSIS: S.L. 2023-47 consolidates and updates the statutes that govern injury to electric, gas, and telecommunications infrastructure, and increase applicable penalties for those offenses.

Section 1 creates 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 is punishable as a Class B2 felony.

The term "energy facility" is 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 also:

- Imposes a \$250,000 penalty for violation of the statute.
- Authorizes 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 exempts punitive damages that can 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 amends 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 amends 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 is now covered under the statute established for damage to energy facilities.

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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- Specifically reference "broadcast" and "broadband."
- Increase the applicable penalty to a Class C felony (from a Class I felony).

Section 4 repeals two statutes governing injury to property of gas and electric power companies, as such damage is covered under the statute established for damage to energy facilities.

EFFECTIVE DATE: This act became effective December 1, 2023, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of the act are not abated or affected by the act, and the statutes that would have been applicable but for the changes made by the act 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.