

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1522

By: Standridge of the Senate

and

Humphrey, Roberts (Dustin),
and Townley of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to crimes and punishments; amending
11 21 O.S. 2021, Sections 1040.75 and 1792, which relate
12 to definitions concerning display of harmful
13 materials and trespass with respect to critical
14 infrastructure facilities; modifying elements of
15 certain definition; providing for criminal liability
16 for loitering; providing certain definition;
17 modifying definition; and providing an effective
18 date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1040.75, is
21 amended to read as follows:

22 Section 1040.75. As used in Sections 1040.75 through 1040.77 of
23 this title:

24 1. "Minor" means any unmarried person under the age of eighteen
(18) years;

2. "Harmful to minors" means:

1 a. that quality of any description, exhibition,
2 presentation or representation, in whatever form, of
3 nudity, sexual conduct, sexual excitement, or
4 sadomasochistic abuse when the material or
5 performance, taken as a whole, has the following
6 characteristics:

7 (1) the average person eighteen (18) years of age or
8 older applying contemporary community standards
9 would find that the material or performance has a
10 predominant tendency to appeal to a prurient
11 interest in sex to minors, and

12 (2) the average person eighteen (18) years of age or
13 older applying contemporary community standards
14 would find that the material or performance
15 depicts or describes nudity, sexual conduct,
16 sexual excitement or sadomasochistic abuse in a
17 manner that is patently offensive to prevailing
18 standards in the adult community with respect to
19 what is suitable for minors, and

20 (3) the material or performance lacks serious
21 literary, scientific, medical, artistic, or
22 political value for minors, or
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1 b. any description, exhibition, presentation or
2 representation, in whatever form, of inappropriate
3 violence~~r~~, or

4 c. any adult that knowingly gives obscene material to a
5 minor without either direct parental or guardian
6 supervision or informed consent of the minor's
7 guardian or parent, or

8 d. any adult that knowingly gives obscene material to a
9 vulnerable person, which shall include, but not be
10 limited to, a person with intellectual or
11 developmental disabilities or a person experiencing
12 homelessness;

13 3. "Inappropriate violence" means any description or
14 representation, in an interactive video game or computer software,
15 of violence which, taken as a whole, has the following
16 characteristics:

17 a. the average person eighteen (18) years of age or older
18 applying contemporary community standards would find
19 that the interactive video game or computer software
20 is patently offensive to prevailing standards in the
21 adult community with respect to what is suitable for
22 minors, and

23 b. the interactive video game or computer software lacks
24 serious literary, scientific, medical, artistic, or

1 political value for minors based on, but not limited
2 to, the following criteria:

- 3 (1) is glamorized or gratuitous,
- 4 (2) is graphic violence used to shock or stimulate,
- 5 (3) is graphic violence that is not contextually
6 relevant to the material,
- 7 (4) is so pervasive that it serves as the thread
8 holding the plot of the material together,
- 9 (5) trivializes the serious nature of realistic
10 violence,
- 11 (6) does not demonstrate the consequences or effects
12 of realistic violence,
- 13 (7) uses brutal weapons designed to inflict the
14 maximum amount of pain and damage,
- 15 (8) endorses or glorifies torture or excessive
16 weaponry, or
- 17 (9) depicts lead characters who resort to violence
18 freely;

19 4. "Nudity" means the:

- 20 a. showing of the human male or female genitals, pubic
21 area, or buttocks with less than a full opaque
22 covering,

1 b. showing of the female breast with less than a full
2 opaque covering of any portion of the female breast
3 below the top of the nipple, or

4 c. depiction of covered male genitals in a discernibly
5 turgid state;

6 5. "Sexual conduct" means acts of masturbation, homosexuality,
7 sexual intercourse, or physical contact with a person's clothed or
8 unclothed genitals, pubic area, buttocks, or, if such person be a
9 female, breast;

10 6. "Sexual excitement" means the condition of human male or
11 female genitals when in a state of sexual stimulation or arousal;

12 7. "Sadomasochistic abuse" means flagellation or torture by or
13 upon a person clothed or naked or the condition of being fettered,
14 bound or otherwise physically restrained on the part of one so
15 clothed or naked;

16 8. "Material" means any book, magazine, newspaper, pamphlet,
17 poster, print, picture, figure, image, description, motion picture
18 film, record, recording tape, CD-ROM disk, Magnetic Disk Memory,
19 Magnetic Tape Memory, video tape, computer software or video game;

20 9. "CD-ROM" means a compact disk with read only memory which
21 has the capacity to store audio, video and written materials and may
22 be used by computer to play or display materials harmful to minors;

23 10. "Magnetic Disk Memory" means a memory system that stores
24 and retrieves binary data on record-like metal or plastic disks

1 coated with a magnetic material, including but not limited to floppy
2 diskettes;

3 11. "Magnetic Tape Memory" means a memory system that stores
4 and retrieves binary data on magnetic recording tape;

5 12. "Performance" means any motion picture, film, video tape,
6 played record, phonograph or tape, preview, trailer, play, show,
7 skit, dance, or other exhibition performed or presented to or before
8 an audience of one or more, with or without consideration;

9 13. "Knowingly" means having general knowledge of, or reason to
10 know, or a belief or ground for belief which warrants further
11 inspection or inquiry of both:

12 a. the character and content of any material or
13 performance which is reasonably susceptible of
14 examination by the defendant, and

15 b. the age of the minor. However, an honest mistake,
16 shall constitute an excuse from liability pursuant to
17 ~~this act~~ Section 1040.75 et seq. of this title if the
18 defendant made a reasonable bona fide attempt to
19 ascertain the true age of such minor;

20 14. "Person" means any individual, partnership, association,
21 corporation, or other legal entity of any kind; and

22 15. "A reasonable bona fide attempt" means an attempt to
23 ascertain the true age of the minor by requiring production of a
24 driver license, marriage license, birth certificate or other

1 governmental or educational identification card or paper and not
2 relying solely on the oral allegations or apparent age of the minor.

3 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1792, is
4 amended to read as follows:

5 Section 1792. A. Any person who shall willfully trespass or
6 enter or loiter upon property containing a critical infrastructure
7 facility without permission by the owner of the property or lawful
8 occupant thereof shall, upon conviction, be guilty of a misdemeanor
9 punishable by a fine of not less than One Thousand Dollars
10 (\$1,000.00), or by imprisonment in the county jail for a term of six
11 (6) months, or by both such fine and imprisonment. If it is
12 determined the intent of the trespasser is to willfully damage,
13 destroy, vandalize, deface, tamper with equipment, or impede or
14 inhibit operations of the facility, the person shall, upon
15 conviction, be guilty of a felony punishable by a fine of not less
16 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the
17 custody of the Department of Corrections for a term of one (1) year,
18 or by both such fine and imprisonment.

19 B. Any person who shall willfully damage, destroy, vandalize,
20 deface or tamper with equipment in a critical infrastructure
21 facility shall, upon conviction, be guilty of a felony punishable by
22 a fine of One Hundred Thousand Dollars (\$100,000.00), or by
23 imprisonment in the custody of the Department of Corrections for a
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1 term of not more than ten (10) years, or by both such fine and
2 imprisonment.

3 C. If an organization is found to be a conspirator with persons
4 who are found to have committed any of the crimes described in
5 subsection A or B of this section, the conspiring organization shall
6 be punished by a fine that is ten times the amount of ~~said~~ the fine
7 authorized by the appropriate provision of this section.

8 D. As used in this section, "loiter" means standing or waiting
9 around idly or without apparent or rational purpose.

10 ~~D.~~ E. As used in this section, "critical infrastructure
11 facility" means:

12 1. One of the following, if completely enclosed by a fence or
13 other physical barrier that is obviously designed to exclude
14 intruders, or if clearly marked with a sign or signs that are posted
15 on the property that are reasonably likely to come to the attention
16 of intruders and indicate that entry is forbidden without site
17 authorization:

- 18 a. a petroleum or alumina refinery,
- 19 b. an electrical power generating facility, substation,
20 switching station, electrical control center or
21 electric power lines and associated equipment
22 infrastructure,
- 23 c. a chemical, polymer or rubber manufacturing facility,

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- 1 d. a water intake structure, water treatment facility,
2 wastewater treatment plant or pump station,
3 e. a natural gas compressor station,
4 f. a liquid natural gas terminal or storage facility,
5 g. a telecommunications central switching office,
6 h. wireless telecommunications infrastructure, including
7 cell towers, telephone poles and lines, including
8 fiber optic lines,
9 i. a port, railroad switching yard, railroad tracks,
10 trucking terminal or other freight transportation
11 facility,
12 j. a gas processing plant, including a plant used in the
13 processing, treatment or fractionation of natural gas
14 or natural gas liquids,
15 k. a transmission facility used by a federally licensed
16 radio or television station,
17 l. a steelmaking facility that uses an electric arc
18 furnace to make steel,
19 m. a facility identified and regulated by the United
20 States Department of Homeland Security Chemical
21 Facility Anti-Terrorism Standards (CFATS) program,
22 n. a dam that is regulated by the state or federal
23 government,
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1 o. a natural gas distribution utility facility including,
2 but not limited to, pipeline interconnections, a city
3 gate or town border station, metering station,
4 aboveground piping, a regulator station and a natural
5 gas storage facility, or

6 p. a crude oil or refined products storage and
7 distribution facility including, but not limited to,
8 valve sites, pipeline interconnections, pump station,
9 metering station, below or aboveground pipeline or
10 piping and truck loading or offloading facility; ~~or~~

11 2. Any aboveground portion of an oil, gas, hazardous liquid or
12 chemical pipeline, tank, railroad facility or other storage facility
13 that is enclosed by a fence, other physical barrier or is clearly
14 marked with signs prohibiting trespassing, that are obviously
15 designed to exclude intruders; or

16 3. Any county-owned property including, but not limited to,
17 courthouses and detention centers.

18 SECTION 3. This act shall become effective November 1, 2022.

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