
Wisconsin Legislative Council

ACT MEMO



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2019 Wisconsin Act 33 [2019 Assembly Bill 426]

Trespass and Damage to Energy Provider Property

2019 Wisconsin Act 33 modifies the circumstances under which a person may be subject to felony penalties for damage and trespass to energy provider property. The act also specifies certain parties that are exempt from these penalties.

DAMAGE TO ENERGY PROVIDER PROPERTY

Under current law, whoever intentionally causes damage to any physical property of another without the person's consent is generally guilty of a Class A misdemeanor. However, it is a Class H felony if the property damaged is owned, leased, or operated by an energy provider, as defined in statute, and the actor intended to or did cause substantial interruption or impairment of any good or service provided by the energy provider.

2019 Wisconsin Act 33 expands the scope of the increased penalty to include property owned, leased, or operated by public water utilities; cooperative associations producing or furnishing water; and companies that operate a gas, oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, storage transportation, or delivery system. Under the act, a company may not be considered an energy provider solely on the basis that it operates a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail.

TRESPASS TO ENERGY PROVIDER PROPERTY

Current law provides that whoever enters any land of another without the person's consent is generally subject to a Class B forfeiture. It is a Class H felony when a person intentionally enters energy provider property without lawful authority and without the consent of the energy provider that owns, leases, or operates the property. Current law defines energy provider property as property that is part of an electric generation, distribution, or transmission system or part of a natural gas distribution system.

Mirroring its modification to property damage statutes, the act expands the definition of energy provider to include public water utilities; cooperative associations producing or furnishing water; and companies that operate a gas, oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, storage transportation, or delivery system. The act also expands the definition of energy provider property to include property that is part of an oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, transmission, or distribution system.

As with the act's property damage provisions, the act provides that a company may not be considered an energy provider solely on the basis that it operates a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail.

PENALTY EXEMPTIONS

Under the act, the felony penalties for damage and trespass to energy provider property do not apply to any person who is:

- Monitoring compliance with public worker safety laws, wage and hour requirements, or other statutory requirements.
- Engaging in picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute.
- Engaging in union organizing or recruitment activities that are otherwise lawful.
- Exercising a right of free speech or assembly that is otherwise lawful.

Effective date: November 22, 2019

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