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# Wisconsin Legislative Council

## AMENDMENT MEMO

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### 2019 Senate Bill 386

### Senate Amendment 1

2019 Senate Bill 386 modifies the circumstances under which a person may be subject to felony penalties for damage and trespass to energy provider property. The bill 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 guilty of a Class A misdemeanor. Presently, this penalty is elevated to a Class H felony if the property damaged is owned, leased, or operated by energy provider, as defined by statute, and the actor intended to or did cause substantial interruption or impairment of any good or service provided by the energy provider.

Senate Bill 386 expands the scope of the increased penalty to also 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.

## 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 also 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 bill 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 definition of energy provider property is expanded to include property that is part of an oil, petroleum, refined petroleum product, renewable fuel, water, or chemical generation, transmission, or distribution system.

## PENALTY EXEMPTIONS

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

- Monitoring compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements.
- Engaging in picketing occurring at the workplace that is otherwise lawful and arises out of a bona fide labor dispute.

- Engaging in union organizing or recruitment activities that is otherwise lawful.
- Exercising a right of free speech or Senate that is otherwise lawful.

## **SENATE AMENDMENT 1**

Senate Amendment 1 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.

## **BILL HISTORY**

Senator Wanggaard offered Senate Amendment 1 to 2019 Senate Bill 386 on October 9, 2019. On October 29, 2019, the Senate Committee on Judiciary and Public Safety voted to recommend adoption of Senate Amendment 1 on a vote of Ayes, 5; Noes, 0; and passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

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