

TO: Senate Judiciary Committee

FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio

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RE: Sub. Senate Bill 250



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To Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I appear to present opponent testimony on Substitute Senate Bill 250.

Clearly, SB 250 was introduced because of concerns stemming from the Dakota Pipeline Access protests in late 2016-early 2017. We know this because those protests resulted in a wave of bills similar to SB 250 introduced in state legislatures across the country.

To be clear, the ACLU of Ohio is not here to defend or encourage violating the law by destroying or damaging facilities, equipment or property anywhere. But SB 250 goes far beyond those scenarios and actions in order to limit and discourage otherwise peaceful demonstrations or the mere exercising of one's First Amendment rights. It does so in a variety of ways.

SB 250 addresses not only actions that "destroy" or "tamper" with critical infrastructure facilities but also those that "impede or inhibit the facility's operations or its construction." "Impede" and "inhibit" are extremely vague terms that could be interpreted quite broadly by prosecutors and judges.

Let's say an activist group decides to organize the public to oppose the construction of a dangerous chemical plant in their community. They encourage people to lobby their elected leaders to reject license applications, changes to zoning laws, public funding, or other steps needed to build and maintain the plant. The elected officials agree and deny or even temporarily stall actions needed to build the plant.

In that scenario, activists are impeding or inhibiting the operation or construction of the facility in violation of SB 250. That they are doing so in a peaceful way afforded to them by the First Amendment does not matter to SB 250. This bill criminalizes the exercising of that fundamental constitutional right with a third degree felony.

SB 250 does not stop there. The organization who rallied people to contact their elected officials would be required to pay a fine ten times the current maximum amount that can be imposed for a third degree felony.

This is but one example of how SB 250 impacts peaceful actions entirely protected by the First Amendment. There are many others and we suspect that is deliberate. That is because SB 250 and its related bills across the country seek to do more than just prevent or punish actual criminal wrongdoing. By design, they are meant to end and severely limit criticism, exposure of possible or actual corporate wrongdoing, or anything that merely inconveniences those who operate or want to build any of the numerous entities defined as "critical infrastructure facilities" in SB 250. All of this to seemingly address incidents in Ohio that are not occurring.

We urge your rejection of Substitute Senate Bill 250 as unnecessary, far too broad, and likely unconstitutional should it be applied to any of the few examples I mentioned, and any or all of the ones I did not.