



# DAVID STEFFEN

STATE REPRESENTATIVE • 4<sup>TH</sup> ASSEMBLY DISTRICT

September 26, 2019

Chairman Kuglitsch and Energy and Utilities Committee Members,

Thank you for holding a public hearing on AB 426 relating to trespassing on the property of an energy provider and providing a penalty.

Critical infrastructure is a term used by the government to describe assets that are essential for the functioning of a society and economy. Most commonly associated with the term are facilities for: shelter, agriculture, water supply, public health, transportation, security services, electricity generation, transmission and distribution (ie. Natural gas, fuel oil, coal, nuclear power) and telecommunication.

In recent years, critical infrastructure sites throughout the Midwest have been the recipients of worker harassment and millions of dollars of vandalism and damage. Acts such as these do not only negatively affect the property being damaged but is also putting nearby communities and environment at risk.

In 2015, we introduced legislation that provides criminal penalties for individuals who intentionally damage or unlawfully enter property of an energy provider. This legislation was passed and signed into law as 2015 Wisconsin Act 158.

Inadvertently, Act 158 did not include language covering the energy infrastructure provided by the water utilities, oil, petroleum, and renewable fuel industries, leaving a significant portion of the energy industry unprotected under the new law. AB 426 corrects this omission by incorporating and giving these types of critical infrastructure the same protections as electric and natural gas infrastructure.

I appreciate your consideration of this bill and I would be happy to answer any questions you may have.



# Van H. Wanggaard

Wisconsin State Senator

## TESTIMONY ON ASSEMBLY BILL 426

Thank you Mr. Chairman and committee members for today's hearing on Assembly Bill 426.

In 2015, Representative Steffen and I authored what became 2015 Act 158. Act 158 criminalized trespassing and/or damaging property of an energy provider. This idea came from a public safety and security concern. As you know, our power grid and related infrastructure is a target that can be damaged and/or sabotaged. A single person could create a problem that could disrupt energy services for hundreds of thousands of people. This is danger to our economy and our safety.

We saw this happen earlier this year in Madison with the MG&E fire. I know the MG&E fire was an accident, but you can see the impact the accident caused. Now imagine, the impact if that fire was intentional. The damage could have been far greater and widespread.

In Act 158, however, we very narrowly defined the target of potential damage to electrical and natural gas generation, transmission and distribution facilities. Of course the potential danger of damage to our energy infrastructure is much more widespread. For that reason, Representative Steffen and I are offering this bill expanding the definition of "energy provider."

In this bill, we add oil, petroleum, water, and renewable fuel facilities to the existing definition of electrical and gas facilities. These other energy facilities can also be targets and would cause similar or greater damage as the electrical and energy facilities.

We also recognize that a person may be viewed as a trespasser despite have a legitimate and legal need to be present on the property. For that reason, we have added a list of activities that is not to be considered trespassing. This includes: union organizing, compliance monitoring, and any other lawful exercise of first amendment rights.

In 2015, Act 158 passed both houses overwhelmingly, including the Assembly on a voice vote. I look forward to your support and am happy to answer any questions.

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## A list of rules and recommendations for those on schoolstrike for climate:

No violence

No damage

No littering

No profit

No hate

Minimise your carbon footprint

Always refer to science

Our demand:

Follow the Paris Agreement and the IPCC report.

Stay below 1,5°C.

Focus on the aspect of equity and climate justice, clearly stated throughout the Paris Agreement.

Because no manifesto can be more radical than that.

Unite behind the science.



#FridaysForFuture #SchoolStrike4Climate

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## FridaysForFuture: ActivismRiskZone

1. Fridaysforfuture want you to only strike in a way, that you feel safe with.
2. Many Fridaysforfuture strikers have a police approval for their strike.
3. It is common for these approvals to only allow a quiet, sitting protest.
4. A. ARZ: ActivismRiskZone is a working group aiming to support activism in risk zones. Use #ARZ\_helps if a minor Human Rights violation occurs and you would like to lift awareness  
B. Fridaysforfuture are unlikely to be able to provide legal support if there are problems, so FFF advises strikers to liaise with local Non Government Organisations and email [Arz@fridaysforfuture.org](mailto:Arz@fridaysforfuture.org). These NGOs, for example, Amnesty, Greenpeace, 350, WWF, usually know local lawyers, who are well versed in protest situations.  
C. Recommended reading for ActivismRiskZone
5. We are a peaceful and quiet striking organisation, but unfortunately we have already seen examples in some countries, where some individuals or organisations try to join a strike for the purpose of causing trouble. Please take care and prioritise your own safety.
6. Fridaysforfuture recommends that all strikers at risk use anonymous style emails if you would like to be contactable from the map, e.g. [FFF\\_happystriker@gmail.com](mailto:FFF_happystriker@gmail.com)

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September 26<sup>th</sup> 2019

Regarding AB 426

Dear Chairperson Kuglitsch and Members of the Assembly Committee on Energy and Utilities,

This is a bill that was written by ALEC and forwarded by corporate entities (eg. Enbridge). It is designed to give energy corporations (including pipelines) extraordinary protections at the expense of citizens. It allows an energy company to call law enforcement and demand arrests and charges against a citizen.

There have been almost no incidents of vandalism perpetrated by protestors in the state of Wisconsin. However, Enbridge has operated without permits which did result in two protestors being charged. No employees were injured by protestors.

Enbridge is currently being sued by the Bad River Reservation for operating illegally on the reservation since 2013. It is clearly not citizens that need extraordinary charges brought against them, but the corporation committing illegal acts.

The real problem between protestors and energy servers is the lack of empowerment given to citizens. There is virtually nothing a citizen can do to stop the use of eminent domain, destruction of the environment, and loss of property values. Trying to do so means hiring high priced lawyers for multiple court appearances and endless paperwork.

Corporations like Enbridge are quick to say they provide energy for Wisconsin. They do not. Their pipelines simply run through the state.

This bill is over-kill. There is no justifiable reason to have it in the state of Wisconsin. There are already laws regarding trespassing and vandalism. This bill also has taxpayers paying for the protection of an energy server. That is a misuse of taxpayer money.

I urge that this bill be terminated. Wisconsin does not need another ALEC bill protecting powerful corporations. Wisconsin needs fairness for citizens that allow them to protect this state. I would wonder if the sponsors of this bill every considered the opinions of their constituents.

Glory Adams  
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STATEMENT OF THE NATIONAL LAWYERS' GUILD-MADISON CHAPTER  
ON AB 426--PROPOSED LEGISLATION TO MAKE TRESPASS ON PIPELINE  
EASEMENTS A FELONY

September 26, 2019

The National Lawyers Guild, which has consistently represented people exercising their constitutional rights to protest projects that threaten our climate, earth and water, opposes this attempt to increase penalties for actions that are already crimes. The 2018 UN Intergovernmental Panel on Climate Change warned that we only have twelve years to act before devastating climate change occurs.

Destruction of property and trespassing are currently illegal in Wisconsin, and opponents of fossil fuel development have been charged and convicted under existing state laws. I know this because we represented people in Douglas County charged on Enbridge Line 3 last year, and in North Dakota on the Dakota Access Pipeline over four years.

The justification for this legislation, "worker safety" is a smokescreen for companies like Enbridge and Husky Oil, which have already polluted Wisconsin lands and waters and brought death and injury to workers and residents near their facilities across the U.S. Enbridge is responsible for at least two fatalities from exploding gas pipelines in the U.S. and Husky Oil's refinery explosion in Superior in April 2016 injured workers and caused a mass evacuation in the city. Wisconsin legislators have stripped workers of collective bargaining rights, unemployment compensation and other protections over the last eight years, so expressions of concern for their wellbeing ring a bit hollow.

The oil and gas industry has concealed evidence of long term climate and human health damage resulting from its operations, and exerts tremendous influence through its lobbying and appointment of former oil executives to government positions. Unlike other private companies that do provide service to Wisconsin residents, most of the oil and gas pipelines in Wisconsin do not stop here—they are just passing through to Illinois or Canada on their way to export.

Leased property, which is included in the bill, usually refers to privately owned property that the pipeline company arranged to lease voluntarily or obtained through eminent domain, which was historically only used by public agencies. Leased property is often not marked consistently and oil and gas pipelines are buried underground, so a person might not know where it is. Lessees may not have the legal authority to prohibit others from entering property that is not exclusively used by them, in fact the expired easement Enbridge had in the national forest expressly allowed people to travel through the easement for hunting, gathering and recreation. The "critical infrastructure" bills that

have proliferated in states since 2016 threaten civil liberties and public oversight of pipeline operations, which frequently violate the law and employ militarized police to intimidate activists.

A felony charge is a serious matter. The number of attorneys who take cases of people charged with felonies is relatively limited because these charges can affect a person's access to jobs, housing, education and the right to vote. Retainers for attorneys in a felony case are in the thousands of dollars. The State Public Defender's office is underfunded and the number of attorneys who take private appointments has declined because private attorneys can't keep their doors open getting \$35 or even \$70 an hour.

Enbridge is operating without a valid easement in the Chequamegon National Forest since 2013 and on the Bad River reservation in northern Wisconsin right now. Who's going to prosecute Enbridge? Instead the sponsors of this legislation propose to make felons of their political adversaries as well as wandering hikers who don't know a pipeline is buried underground. Despite industry claims that they can detect pipeline leaks, many spills and leaks are discovered by people passing by. We already have too many people in prison here. There's no need for more.

AB 426 does nothing to serve the public interest, and only works to protect the fossil fuel industry at the request of the American Petroleum Institute from the growing criticism and citizen actions against oil and gas pipelines in the face of the accelerating climate crisis threatening life on this planet.

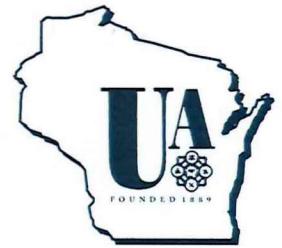
The Madison Chapter of the National Lawyers Guild is the local arm of the national organization of lawyers, legal workers, law students, and jailhouse lawyers. The National Lawyers Guild represents progressive political movements, and its motto is that human rights are more sacred than property interests.

Patricia K. Hammel  
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# WISCONSIN PIPE TRADES ASSOCIATION

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TO: Chairman Kuglitsch and the members of the Assembly Committee on Energy and Utilities

RE: Support of Passage of AB 426/SB-386, relating to trespassing on the property of an energy provider and providing a penalty

Good morning Chairman Kuglitsch and members of the Assembly Committee on Energy and Utilities. Thank you for the opportunity to appear before you today to testify on AB-426. My name is Terry Hayden and I am here on behalf of the nearly 9,000 skilled tradesmen and women of the Wisconsin Pipe Trades Association.

We respectfully ask that you support passage of AB-426, which adds petroleum, renewable fuel, chemical and water infrastructure to the existing state statutes protecting electric and natural gas infrastructure from trespassing and damage.

This bill is a much-needed measure, as we've seen and heard of an increasing number of situations in which individuals trespass and intentionally, or unintentionally, cause damage to critical energy infrastructure and workers' equipment at job sites. In the Midwest alone, we've seen millions of dollars of construction equipment set on fire and hydraulic lines punctured. As a result, our workers are feeling increasingly unsafe on those job sites. Our work at these sites is already inherently dangerous. When vandalism occurs, the already-present risk of serious workplace injuries is compounded. It's possible that workers may not even notice damage or tampering until they are relying on the safe operation of equipment, at which point it could be too late to prevent a worksite incident. In addition to the threat to worker safety, trespassing and the damage that often comes with it can jeopardize the reliable operation of critical infrastructure. Such tampering could potentially lead to an environmental disaster.

We defend the rights of all Americans to oppose projects they disagree with and peacefully demonstrate that opposition. Assembly Bill 426 does not remove the right to protest, organize or demonstrate against a project. Instead, it intends to protect workers and help ensure the reliability of the equipment on which they rely.

On behalf of the Wisconsin Pipe Trades Association we ask that you please support the passage of AB-426/SB-386. I would be happy to address any questions from committee members at this time.

Thank you,

Terry Hayden



**WRITTEN TESTIMONY OF TERRY MCGOWAN**  
**President and Business Manager, International Union of Operating Engineers, Local 139**  
**Public Hearing on AB426**  
**September 26, 2019**

My name is Terry McGowan. I am the president and business manager of Wisconsin Operating Engineers Local 139, representing the more than 10,000 men and women who operate the heavy equipment that builds Wisconsin's roads, bridges, schools and other critical infrastructure.

I thank members of this committee for allowing me to submit testimony on AB 426. I will be brief.

As I mentioned, we work on some of Wisconsin's major infrastructure projects, including wind and solar farms and pipelines. I understand that not all of the projects we work on are popular. However, the safety of construction workers, the public and the environment is paramount.

Increasingly, I see my members' physical safety put at risk by people protesting the construction projects we're working on. For example, one of my members had a rock thrown at him while working on a pipeline project. My members have to undergo specific competency testing and safety training to work in pipeline construction corridors, and demonstrators have no such specialized training or safety knowledge.

The demonstrator who threw the rock at my member was so close to the equipment that he was in a blind spot, which means the operator could not see the demonstrator. This could have resulted in serious injury to the worker or the demonstrator, and it could have caused a much larger accident on the construction site if the worker had lost control of his machine. Thankfully, that did not happen.

Others have not been so lucky. Equipment in Iowa was set on fire, workers in North Dakota were physically blocked from a construction site and threatened with bodily injury, and pipe that was being installed in South Dakota was deliberately damaged with torches. Millions of dollars in property damage and workers quitting in fear for their safety have become increasingly common in the Midwest.

I firmly believe that all citizens should have the right to oppose projects and voice their concerns. Public input and the right to peacefully demonstrate must be preserved. But the public has no right to enter an already dangerous, restricted construction site without proper training or any safety knowledge, thereby putting workers, themselves and the environment at risk.

AB 426, the Worker Safety and Energy Security Act, doesn't create new laws to protect my members. Instead, it expands protections already in place for *some* utility projects to nearly *all* energy projects. It also clearly preserves the right of safe and peaceful protest, organization and demonstration.

AB 426 strikes the right balance between the safety of workers, the security of critical infrastructure, environmental protection and the rights of speech and expression. Criminal assault and property damage, even in the name of a cause one believes strongly in, cannot be condoned

and should not be encouraged. The hard-working construction workers of this state deserve to feel safe and need your help.

Wisconsin's 10,000 operating engineers ask the committee members, and all members of the legislature, to pass the Worker Safety and Energy Security Act.

Thank you for your time.

# Star-Observer

*Serving the Hudson, New Richmond and River Falls area*

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September 26, 2019

## LETTERS

### **Letter: Bill would protect workers, infrastructure and peaceful demonstration**

As Wisconsin Operating Engineers Local 139, we work on some of Wisconsin's major infrastructure projects – roads, bridges, schools, wind farms and occasionally pipelines. Not all of those projects are popular, and we understand that. But we care about our safety, our coworkers' safety and, equally as important, the safety of the people who oppose the projects we work on, along with the environment.

Increasingly, hard-working construction workers have come under some form of attack as people protest projects we're working on. That is unacceptable. In recent years, critical infrastructure worksites in the Midwest have seen millions of dollars of construction equipment set on fire, hydraulic lines punctured, and other property vandalized. Physical and verbal intimidation of workers is on the increase. And individuals breaking into facilities and turning off major pipeline valves is becoming more common and risks causing a serious environmental disaster.

Sabotaging our equipment, blocking our movements in a restricted construction zone or vandalizing infrastructure only serves to put workers and demonstrators in harm's way. We deserve a safe work environment. We deserve to return home to our families at the end of the day or week. We care deeply about our livelihood, our families and the communities we serve. That is why we also fully support the rights of all American citizens to peacefully oppose projects and speak their mind about issues important to them.

We appreciate Sens. Janet Bewley and Patty Schachtner's support of Senate Bill 386 – the Worker Safety and Energy Security Act.

This act doesn't create new laws to protect us, rather it expands existing statutes that protect other critical infrastructure to include pipelines of any description – petroleum, renewable fuel, chemical and water. We work on these pipelines and we need to be safe.

We also staunchly defend the rights of all Americans to exercise their free speech. Contrary to what some people are claiming, the act would not infringe on the right to peacefully protest, organize or otherwise speak out. Those rights are specifically, unequivocally preserved in the act. What is not, and should not be, protected under the act is criminal behavior that threatens lives and the environment.

We ask all legislators to please pass SB 386.

**Karl Magerl, Poplar, Wis.**  
**Operating Engineers Local 139 member**

**Harry Wickman Jr., Mason, Wis.**  
**Operating Engineers Local 139 member**



**Please Support The Worker Safety and Energy Security Act  
(AB 426/SB 386)**

**TO:** Wisconsin State Lawmakers

**FROM:** American Chemistry Council, American Petroleum Institute, Construction Business Group, International Union of Operating Engineers Local 139, Mechanical Contractors Association of Wisconsin, Metropolitan Milwaukee Association of Commerce, Midwest Food Products Association, Plumbing and Mechanical Contractors Association of Milwaukee and Southeastern Wisconsin, Sheet Metal and Air Conditioning Contractors' Association of Milwaukee, U.S. Venture, Wisconsin Building Trades Council, Wisconsin Farm Bureau Federation, Wisconsin Grocers Association, Wisconsin Independent Businesses, Wisconsin Independent Businesses Agri-Business Coalition, Wisconsin Industrial Energy Group, Wisconsin Laborers District Council, Wisconsin Manufacturers & Commerce, Wisconsin Paper Council, Wisconsin Pipe Trades, Wisconsin Propane Gas Association, Wisconsin Restaurant Association, Wisconsin Rural Water Association, Wisconsin Transportation Builders Association, Wisconsin Underground Contractors Association, Wisconsin Utilities Association

**DATE:** September 26, 2019

There is no doubt that our state's economy and families depend on an infrastructure network to move and supply energy and water for transportation, heating homes, powering manufacturing, fueling agriculture and for providing the sustenance for survival. Unfortunately,



we are seeing increased efforts by some to sabotage this critical infrastructure and harass the workers we depend on to keep it up and running.

In recent years, critical infrastructure worksites in the Midwest have seen millions of dollars of construction equipment set on fire<sup>1</sup>, hydraulic fluid leaked onto the ground due to vandalism<sup>2</sup>, intimidation of labor on worksites<sup>3</sup>, and individuals using force to break into facilities and unsafely turn off this critical infrastructure.<sup>4</sup> Unfortunately, those causing this damage and disruption often either do not fully understand the harm they cause or simply don't care. Workers – usually skilled, union tradesmen and tradeswomen – are increasingly feeling unsafe and are seeing their equipment and even their own personal property being damaged. Attempts to improperly turn off or sabotage critical infrastructure is also putting our communities and environment at risk, and, in some cases, putting the lives of those doing the vandalism in jeopardy.

To address these serious and growing concerns, the Worker Safety and Energy Security Act adds petroleum, renewable fuel, chemical and water infrastructure to the existing criminal statute protecting our critical infrastructure from trespassing and damage, giving these types of critical infrastructure the same protections as electric and natural gas infrastructure. Nothing in this legislation impacts first amendment rights to organize, protest or picket, and to make that clear language has been included to ensure this legislation does not violate those rights.

We view this as a commonsense proposal that merely corrects an oversight from when the Legislature passed its bill protecting utility infrastructure from these same types of criminal actions. This bipartisan legislation has support from labor, agriculture and business and we respectfully ask that you support these bills.

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<sup>1</sup> <https://www.stormlakepilottribune.com/story/2360014.html>

<sup>2</sup> <https://www.duluthnewtribune.com/business/energy-and-mining/4459466-equipment-vandalized-line-3-replacement-site>

<sup>3</sup> <https://www.liuna.org/news/story/extremists-target-dakota-access-pipeline-construction>

<sup>4</sup> <https://www.apnews.com/c816b1cf8e1047f688fe349e2712d0f4>

Dear Representative Kuglitsch,

I am unable to attend the public hearing today (9/26, 11:00 a.m.) on Assembly Bill 426.

After reviewing the proposed legislation, I would like to voice my opposition to the bill.

1) Indigenous people have a right to protect their lands and associated watersheds from the potential of environmental damage caused by pipelines. I am opposed to any bill that criminalizes their ability to protect those lands from development by energy companies. In my opinion, this is a violation of their first amendment rights and an attempt to suppress their right to fair treatment overall.

Also, any damage that occurs on their lands will have a downstream impact on other natural resources in Wisconsin. We are not accounting for the cost of damage to our natural resources and how that will impact all Wisconsinites both in terms of jobs, but also recreational activities and access to clean water and food.

2) I fear this bill sets a precedent for any type of protest around environmental issues, particularly in the fossil fuel industry. A major concern around the world is climate change. People must have the ability to voice their opinions (which includes protests) around de-carbonization and the future of energy policy in Wisconsin, in the US and around the world.

3) My greatest fear is the cost of "business as usual". Wisconsin is experiencing the volatile face of climate change – very apparent this year with damaging storms and flooding. The economic cost of recovery is only going to increase as our climate warms, not to mention the devastation to the lives of fellow Wisconsinites impacted by these weather events as well as the loss of habitat and natural resources. The environment is not a partisan issue, yet we have made it into one. My hope is that our elected officials will make decisions from their hearts as they think about future generations, not from who is supporting their campaign.

4) I am encouraging Wisconsin representatives to switch their attention to the climate issue, to become leaders in moving Wisconsin towards 100% clean energy, within the next 10 years. I respectfully ask that you spend time reviewing the solutions that are ready to be implemented. (Project Drawdown (<https://www.drawdown.org/>) is an excellent resource for solutions we can begin implementing today, along with information on economic impact.)

What I perceive to be lacking is political will – at all levels of government. I am hoping that visionary leadership will surface in Wisconsin so our state can lead the way in moving towards energy sources that keep the air and water clean, create jobs, protect our recreational lands & habitat, and, reduce further damage from carbon dioxide emissions.

I would love to see Wisconsin adopt a 100% Clean Energy campaign as many other states, counties and cities across the country are doing. We have many talented people in Wisconsin and across the country, ready and willing move this forward. Let's tap into their knowledge, work to create clean energy jobs, and protect the natural world that so many people in Wisconsin love.



Thank you for your time. I appreciate all the work you are doing in a challenging political environment and I hope that you will be a beacon of light the world desperately needs right now. I look forward to hearing from you regarding the future of energy policy in Wisconsin.

Mary Radue

879 W. St. Francis Rd.  
De Pere, WI 54115  
920.336.8643

Rep. Emerson,

Please give a copy of my comments to the hearing for AB 426 on September 26 before the Energy and Utilities committee. Thank you.

This is a bill that was written by ALEC and forwarded by corporate entities (eg. Enbridge). It is designed to give energy corporations (including pipelines) extraordinary protections at the expense of citizens. It allows an energy company to call law enforcement and demand arrests and charges against a citizen. There have been almost no incidents of vandalism perpetrated by protestors in the state of Wisconsin. However, Enbridge has operated without permits which did result in two protestors being charged. No employees were injured by protestors. Enbridge is currently being sued by the Bad River Reservation for operating illegally on the reservation since 2013. It is clearly not citizens that need extraordinary charges brought against them, but the corporation committing illegal acts.

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