

By: Spiller

H.B. No. 141

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution and punishment of certain criminal
3 offenses committed in the course of or for the purpose of avoiding
4 certain law enforcement checkpoints or evading an arrest or
5 detention; increasing criminal penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 20.05, Penal Code, is amended by adding
8 Subsection (b-1) to read as follows:

9 (b-1) For purposes of Subsection (a)(1)(A), the actor is
10 presumed to have acted knowingly and with the intent to conceal the
11 individual being transported from a peace officer or special
12 investigator if in the course of committing the offense the actor
13 intentionally avoided a federal or state law enforcement
14 checkpoint.

15 SECTION 2. Section 22.01(b-1), Penal Code, is amended to
16 read as follows:

17 (b-1) Notwithstanding Subsection (b), an offense under
18 Subsection (a)(1) is a felony of the third degree if:

19 (1) it is shown on the trial of the offense that the
20 actor committed the offense in the course of or for the purpose of
21 intentionally avoiding a federal or state law enforcement
22 checkpoint; or

23 (2) the offense is committed:

24 (A) [~~(1)~~] while the actor is committed to a civil

1 commitment facility; and

2 (B) [~~(2)~~] against:

3 (i) [~~(A)~~] an officer or employee of the
4 Texas Civil Commitment Office:

5 (a) [~~(i)~~] while the officer or
6 employee is lawfully discharging an official duty at a civil
7 commitment facility; or

8 (b) [~~(ii)~~] in retaliation for or on
9 account of an exercise of official power or performance of an
10 official duty by the officer or employee; or

11 (ii) [~~(B)~~] a person who contracts with the
12 state to perform a service in a civil commitment facility or an
13 employee of that person:

14 (a) [~~(i)~~] while the person or
15 employee is engaged in performing a service within the scope of the
16 contract, if the actor knows the person or employee is authorized by
17 the state to provide the service; or

18 (b) [~~(ii)~~] in retaliation for or on
19 account of the person's or employee's performance of a service
20 within the scope of the contract.

21 SECTION 3. Chapter 28, Penal Code, is amended by adding
22 Section 28.10 to read as follows:

23 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
24 STATE JAIL FELONIES. The punishment for an offense under this
25 chapter that is punishable as a misdemeanor or a state jail felony
26 is increased to the punishment for a felony of the third degree if
27 it is shown on the trial of the offense that the actor committed the

1 offense in the course of or for the purpose of:

2 (1) intentionally avoiding a federal or state law
3 enforcement checkpoint; or

4 (2) engaging in conduct constituting an offense under
5 Section 38.04.

6 SECTION 4. Section 30.02, Penal Code, is amended by
7 amending Subsection (c) and adding Subsection (c-2) to read as
8 follows:

9 (c) Except as provided in Subsection (c-1), (c-2), or (d),
10 an offense under this section is a:

11 (1) state jail felony if committed in a building other
12 than a habitation; or

13 (2) felony of the second degree if committed in a
14 habitation.

15 (c-2) An offense under this section is a felony of the third
16 degree if:

17 (1) the premises are a building other than a
18 habitation; and

19 (2) it is shown on the trial of the offense that the
20 actor committed the offense in the course of or for the purpose of
21 intentionally avoiding a federal or state law enforcement
22 checkpoint.

23 SECTION 5. Section 30.04(d), Penal Code, is amended to read
24 as follows:

25 (d) An offense under this section is a Class A misdemeanor,
26 except that:

27 (1) the offense is a Class A misdemeanor with a minimum

1 term of confinement of six months if it is shown on the trial of the
2 offense that the defendant has been previously convicted of an
3 offense under this section;

4 (2) the offense is a state jail felony if:

5 (A) it is shown on the trial of the offense that
6 the defendant has been previously convicted two or more times of an
7 offense under this section; or

8 (B) the vehicle or part of the vehicle broken
9 into or entered is a rail car; and

10 (3) the offense is a felony of the third degree if:

11 (A) the vehicle broken into or entered is owned
12 or operated by a wholesale distributor of prescription drugs~~[+]~~ and

13 ~~[(B)]~~ the actor breaks into or enters that
14 vehicle with the intent to commit theft of a controlled substance;
15 or

16 (B) it is shown on the trial of the offense that
17 the actor committed the offense in the course of or for the purpose
18 of intentionally avoiding a federal or state law enforcement
19 checkpoint.

20 SECTION 6. Section 30.05(d), Penal Code, is amended to read
21 as follows:

22 (d) Subject to Subsection (d-3), an offense under this
23 section is:

24 (1) a Class B misdemeanor, except as provided by
25 Subdivisions (2), ~~[and]~~ (3), and (4);

26 (2) a Class C misdemeanor, except as provided by
27 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is

1 committed:

2 (A) on agricultural land and within 100 feet of
3 the boundary of the land; or

4 (B) on residential land and within 100 feet of a
5 protected freshwater area; ~~and~~

6 (3) a Class A misdemeanor, except as provided by
7 Subdivision (4), if:

8 (A) the offense is committed:

9 (i) in a habitation or a shelter center;

10 (ii) on a Superfund site; or

11 (iii) on or in a critical infrastructure
12 facility;

13 (B) the offense is committed on or in property of
14 an institution of higher education and it is shown on the trial of
15 the offense that the person has previously been convicted of:

16 (i) an offense under this section relating
17 to entering or remaining on or in property of an institution of
18 higher education; or

19 (ii) an offense under Section 51.204(b)(1),
20 Education Code, relating to trespassing on the grounds of an
21 institution of higher education;

22 (C) the person carries a deadly weapon during the
23 commission of the offense; or

24 (D) the offense is committed on the property of
25 or within a general residential operation operating as a
26 residential treatment center; and

27 (4) a felony of the third degree if it is shown on the

1 trial of the offense that the defendant committed the offense in the
2 course of or for the purpose of intentionally avoiding a federal or
3 state law enforcement checkpoint.

4 SECTION 7. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect on the date the offense was committed, and the
8 former law is continued in effect for that purpose. For purposes of
9 this section, an offense was committed before the effective date of
10 this Act if any element of the offense was committed before that
11 date.

12 SECTION 8. This Act takes effect on the 91st day after the
13 last day of the legislative session.