

By: Hall

S.B. No. 46

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to increasing the criminal penalty for the offense of  
3 criminal mischief involving tampering with a state-owned barrier or  
4 part of a barrier used to prevent travel across the international  
5 border of this state.

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

7 SECTION 1. Section 28.03, Penal Code, is amended by  
8 amending Subsection (b) and adding Subsection (1) to read as  
9 follows:

10 (b) Except as provided by Subsections (f), ~~and~~ (h), and  
11 (1), an offense under this section is:

12 (1) a Class C misdemeanor if:

13 (A) the amount of pecuniary loss is less than  
14 \$100; or

15 (B) except as provided in Subdivision (3)(A) or  
16 (3)(B), it causes substantial inconvenience to others;

17 (2) a Class B misdemeanor if the amount of pecuniary  
18 loss is \$100 or more but less than \$750;

19 (3) a Class A misdemeanor if:

20 (A) the amount of pecuniary loss is \$750 or more  
21 but less than \$2,500; or

22 (B) the actor causes in whole or in part  
23 impairment or interruption of any public water supply, or causes to  
24 be diverted in whole, in part, or in any manner, including

1 installation or removal of any device for any such purpose, any  
2 public water supply, regardless of the amount of the pecuniary  
3 loss;

4 (4) a state jail felony if the amount of pecuniary loss  
5 is:

6 (A) \$2,500 or more but less than \$30,000;

7 (B) less than \$2,500, if the property damaged or  
8 destroyed is a habitation and if the damage or destruction is caused  
9 by a firearm or explosive weapon;

10 (C) less than \$2,500, if the property was a fence  
11 used for the production or containment of:

12 (i) cattle, bison, horses, sheep, swine,  
13 goats, exotic livestock, or exotic poultry; or

14 (ii) game animals as that term is defined by  
15 Section 63.001, Parks and Wildlife Code;

16 (D) less than \$30,000 and the actor:

17 (i) causes wholly or partly impairment or  
18 interruption of property used for flood control purposes or a dam or  
19 of public communications, public transportation, public gas  
20 supply, or other public service; or

21 (ii) causes to be diverted wholly, partly,  
22 or in any manner, including installation or removal of any device  
23 for any such purpose, any public communications or public gas  
24 supply; or

25 (E) less than \$30,000, if the property is a motor  
26 vehicle that is damaged, destroyed, or tampered with during the  
27 removal or attempted removal of a catalytic converter from the

1 motor vehicle;

2 (5) a felony of the third degree if:

3 (A) the amount of the pecuniary loss is \$30,000  
4 or more but less than \$150,000;

5 (B) the actor, by discharging a firearm or other  
6 weapon or by any other means, causes the death of one or more head of  
7 cattle or bison or one or more horses;

8 (C) the actor causes wholly or partly impairment  
9 or interruption of access to an automated teller machine,  
10 regardless of the amount of the pecuniary loss; or

11 (D) the amount of pecuniary loss is less than  
12 \$150,000 and the actor:

13 (i) causes wholly or partly impairment or  
14 interruption of property used for public power supply; or

15 (ii) causes to be diverted wholly, partly,  
16 or in any manner, including installation or removal of any device  
17 for any such purpose, any public power supply;

18 (6) a felony of the second degree if the amount of  
19 pecuniary loss is \$150,000 or more but less than \$300,000; or

20 (7) a felony of the first degree if the amount of  
21 pecuniary loss is \$300,000 or more.

22 (1) An offense under this section is a Class A misdemeanor  
23 if:

24 (1) the real property or tangible personal property is  
25 owned by the state and functions as a barrier or part of a barrier to  
26 prevent travel across the international border of this state;

27 (2) the property is tampered with to a degree that the

1 actor is able to cause in whole or in part impairment or  
2 interruption of the functioning of the barrier, regardless of the  
3 amount of pecuniary loss; and

4 (3) the amount of any pecuniary loss to the property is  
5 not more than \$2,500.

6 SECTION 2. The change in law made by this Act applies only  
7 to an offense committed on or after the effective date of this Act.  
8 An offense committed before the effective date of this Act is  
9 governed by the law in effect on the date the offense was committed,  
10 and the former law is continued in effect for that purpose. For  
11 purposes of this section, an offense was committed before the  
12 effective date of this Act if any element of the offense occurred  
13 before that date.

14 SECTION 3. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect on the 91st day after the last day of the  
19 legislative session.