

By: Guillen, et al.

H.B. No. 800

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment for certain criminal conduct involving
3 the smuggling of persons, the operation of a stash house, or evading
4 an arrest or detention; increasing criminal penalties.

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

6 SECTION 1. Sections 12.50(b) and (c), Penal Code, are
7 amended to read as follows:

8 (b) The increase in punishment authorized by this section
9 applies only to an offense under:

- 10 (1) Section 20.05;
- 11 (2) Section 20.06;
- 12 (3) Section 20.07;
- 13 (4) Section 22.01;
- 14 (5) [~~(2)~~] Section 28.02;
- 15 (6) [~~(3)~~] Section 29.02;
- 16 (7) [~~(4)~~] Section 30.02;
- 17 (8) [~~(5)~~] Section 30.03;
- 18 (9) [~~(6)~~] Section 30.04;
- 19 (10) [~~(7)~~] Section 30.05; and
- 20 (11) [~~(8)~~] Section 31.03.

21 (c) If an offense listed under Subsection (b) [~~(b)(1), (5),~~
22 ~~(6), (7), or (8)]~~ is punishable as a Class A misdemeanor, the
23 minimum term of confinement for the offense is increased to 180
24 days. If an offense listed under Subsection (b) [~~(b)(2), (4), or~~

1 ~~(8)~~] is punishable as a felony of the first degree, the punishment
2 for that offense may not be increased under this section. The
3 minimum term of imprisonment for an offense listed under Subsection
4 (b)(1), (2), or (3) for which punishment is increased under this
5 section is 10 years.

6 SECTION 2. Section 20.05(b), Penal Code, is amended to read
7 as follows:

8 (b) An offense under this section is a felony of the third
9 degree with a term of imprisonment of 10 years, except that the
10 offense is:

11 (1) a felony of the second degree with a minimum term
12 of imprisonment of 10 years if:

13 (A) the actor commits the offense in a manner
14 that creates a substantial likelihood that the smuggled individual
15 will suffer serious bodily injury or death;

16 (B) the smuggled individual is a child younger
17 than 18 years of age at the time of the offense;

18 (C) the offense was committed with the intent to
19 obtain a pecuniary benefit;

20 (D) during the commission of the offense the
21 actor, another party to the offense, or an individual assisted,
22 guided, or directed by the actor knowingly possessed a firearm; or

23 (E) the actor commits the offense under
24 Subsection (a)(1)(B); or

25 (2) a felony of the first degree with a minimum term of
26 imprisonment of 10 years if:

27 (A) it is shown on the trial of the offense that,

1 as a direct result of the commission of the offense, the smuggled
2 individual became a victim of sexual assault, as defined by Section
3 22.011, or aggravated sexual assault, as defined by Section 22.021;
4 or

5 (B) the smuggled individual suffered serious
6 bodily injury or death.

7 SECTION 3. Sections 20.06(e) and (f), Penal Code, are
8 amended to read as follows:

9 (e) Except as provided by Subsections (f) and (g), an
10 offense under this section is a felony of the second degree with a
11 minimum term of imprisonment of 10 years.

12 (f) An offense under this section is a felony of the first
13 degree with a minimum term of imprisonment of 10 years if:

14 (1) the conduct constituting an offense under Section
15 20.05 is conducted in a manner that creates a substantial
16 likelihood that the smuggled individual will suffer serious bodily
17 injury or death; or

18 (2) the smuggled individual is a child younger than 18
19 years of age at the time of the offense.

20 SECTION 4. Section 20.07(b), Penal Code, is amended to read
21 as follows:

22 (b) An offense under this section is a felony of the third
23 degree with a minimum term of imprisonment of five years, except
24 that the offense is a felony of the second degree with a minimum
25 term of imprisonment of five years if:

26 (1) the offense is committed under Subsection (a)(1)
27 and the property that is the subject of the offense is used to

1 commit or facilitate the commission of an offense under Section
2 20.06, 20A.03, or 43.05; or

3 (2) it is shown on the trial of the offense that as a
4 direct result of the commission of the offense:

5 (A) an individual became a victim of sexual
6 assault, as defined by Section 22.011, or aggravated sexual
7 assault, as defined by Section 22.021; or

8 (B) an individual suffered serious bodily injury
9 or death [Class A misdemeanor].

10 SECTION 5. Section 22.01(b-1), Penal Code, is amended to
11 read as follows:

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

14 (1) it is shown on the trial of the offense that the
15 actor committed the offense in the course of committing an offense
16 under Section 20.05(a)(2); or

17 (2) the offense is committed:

18 (A) [~~(1)~~] while the actor is committed to a civil
19 commitment facility; and

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

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

23 (a) [~~(i)~~] while the officer or
24 employee is lawfully discharging an official duty at a civil
25 commitment facility; or

26 (b) [~~(ii)~~] in retaliation for or on
27 account of an exercise of official power or performance of an

1 official duty by the officer or employee; or

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

5 (a) [~~(i)~~] while the person or
6 employee is engaged in performing a service within the scope of the
7 contract, if the actor knows the person or employee is authorized by
8 the state to provide the service; or

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

12 SECTION 6. Chapter 28, Penal Code, is amended by adding
13 Section 28.10 to read as follows:

14 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
15 STATE JAIL FELONIES. The punishment for an offense under this
16 chapter that is punishable as a misdemeanor or a state jail felony
17 is increased to the punishment for a felony of the third degree if
18 it is shown on the trial of the offense that the actor committed the
19 offense:

20 (1) in the course of committing an offense under
21 Section 20.05(a)(2); or

22 (2) in the course of or for the purpose of engaging in
23 conduct constituting an offense under Section 38.04.

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

27 (c) Except as provided in Subsection (c-1), (c-2), or (d),

1 an offense under this section is a:

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

4 (2) felony of the second degree if committed in a
5 habitation.

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

8 (1) the premises are a building other than a
9 habitation; and

10 (2) it is shown on the trial of the offense that the
11 actor committed the offense in the course of committing an offense
12 under Section 20.05(a)(2).

13 SECTION 8. Section 30.04(d), Penal Code, is amended to read
14 as follows:

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

17 (1) the offense is a Class A misdemeanor with a minimum
18 term of confinement of six months if it is shown on the trial of the
19 offense that the defendant has been previously convicted of an
20 offense under this section;

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

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

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

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

1 (A) the vehicle broken into or entered is owned
2 or operated by a wholesale distributor of prescription drugs~~[+]~~ and
3 ~~[(B)]~~ the actor breaks into or enters that
4 vehicle with the intent to commit theft of a controlled substance;
5 or

6 (B) it is shown on the trial of the offense that
7 the actor committed the offense in the course of committing an
8 offense under Section 20.05(a)(2).

9 SECTION 9. Section 30.05(d), Penal Code, is amended to read
10 as follows:

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

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

15 (2) a Class C misdemeanor, except as provided by
16 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is
17 committed:

18 (A) on agricultural land and within 100 feet of
19 the boundary of the land; or

20 (B) on residential land and within 100 feet of a
21 protected freshwater area; ~~[and]~~

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

24 (A) the offense is committed:

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

26 (ii) on a Superfund site; or

27 (iii) on or in a critical infrastructure

1 facility;

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

5 (i) an offense under this section relating
6 to entering or remaining on or in property of an institution of
7 higher education; or

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

11 (C) the person carries a deadly weapon during the
12 commission of the offense; or

13 (D) the offense is committed on the property of
14 or within a general residential operation operating as a
15 residential treatment center; and

16 (4) a felony of the third degree if it is shown on the
17 trial of the offense that the defendant committed the offense in the
18 course of committing an offense under Section 20.05(a)(2).

19 SECTION 10. Section 38.04, Penal Code, is amended by adding
20 Subsection (b-1) to read as follows:

21 (b-1) Notwithstanding Subsection (b), an offense under this
22 section is a felony of the third degree if it is shown on the trial
23 of the offense that the actor committed the offense in the course of
24 committing an offense under Section 20.05(a)(2).

25 SECTION 11. The changes in law made by this Act apply only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense was
5 committed before that date.

6 SECTION 12. This Act takes effect September 1, 2023.