

By: Hefner, Spiller, Orr, Metcalf,
Morales of Maverick, et al.

H.B. No. 1600

Substitute the following for H.B. No. 1600:

By: Spiller

C.S.H.B. No. 1600

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of a criminal offense for illegal entry
3 into this state from Mexico by a person who is not a citizen or legal
4 permanent resident of the United States.

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

6 SECTION 1. The legislature finds that:

7 (1) Mexican drug cartels are designated as foreign
8 terrorist organizations in Executive Order No. GA-42 because they
9 have trafficked hundreds of millions of lethal doses of fentanyl
10 into this state since 2021;

11 (2) to fund this deadly violence, Mexican drug cartels
12 have recently smuggled aliens across the Texas-Mexico border at a
13 record-setting pace;

14 (3) this unprecedented surge of illegal immigration
15 has been a declared disaster for Texans since May 31, 2021;

16 (4) although an alien commits a federal offense under
17 8 U.S.C. Section 1325(a)(1) and its implementing regulations by
18 entering the United States at any time or place other than a
19 federally designated port of entry, the federal government has
20 ignored repeated demands for aggressive prosecution of these
21 illegal-entry offenses by the United States Department of Homeland
22 Security and the United States Department of Justice;

23 (5) the federal government's refusal to faithfully
24 execute 8 U.S.C. Section 1325(a)(1) and other immigration laws

1 enacted by Congress has broken the federal government's promise to
2 "protect each [state] against invasion" under Section 4, Article
3 IV, United States Constitution;

4 (6) this federal dereliction of duty has compelled
5 this state to protect its own border against invasion by Mexican
6 drug cartels using the sovereign powers reserved to the states;

7 (7) as "Commander-in-Chief of the military forces of
8 the State," the governor has the power to "call forth the militia to
9 execute the laws of the State" to "repel invasions" under Section 7,
10 Article IV, Texas Constitution; and

11 (8) the governor has the authority to protect Texans
12 from cartel violence and defend the state's territorial integrity
13 by enforcing a state-law version of the illegal-entry offense that
14 the federal government has refused to use under 8 U.S.C. Section
15 1325(a)(1).

16 SECTION 2. Chapter 38, Penal Code, is amended by adding
17 Section 38.20 to read as follows:

18 Sec. 38.20. ILLEGAL ENTRY FROM MEXICO. (a) In this
19 section, "port of entry" has the meaning assigned by 19 C.F.R.
20 Section 101.1, as that provision existed on January 1, 2023.

21 (b) A person who is not a citizen or legal permanent
22 resident of the United States commits an offense if the person
23 enters or attempts to enter this state by crossing its border with
24 Mexico at any location other than a port of entry.

25 (c) An offense under this section is a felony of the third
26 degree, except that the offense is a felony of the second degree if
27 it is shown on the trial of the offense that the actor has

1 previously been convicted of an offense under this section.

2 SECTION 3. This Act takes effect September 1, 2023.