

By: Hayes

H.B. No. 4368

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the protection of this state and its citizens from
3 border invasion or imminent danger from border security breaches;
4 creating a criminal offense.

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

6 SECTION 1. Subtitle B, Title 4, Government Code, is amended
7 by adding Chapter 425 to read as follows:

8 CHAPTER 425. BORDER INVASION AND IMMINENT DANGER

9 Sec. 425.001. DEFINITIONS. In this chapter:

10 (1) "Port of entry" has the meaning assigned by
11 Section 621.001, Transportation Code.

12 (2) "Remove" means to transfer and expel individuals
13 in this state that have made an unlawful entry into the United
14 States to a location outside the border of the United States.

15 (3) "Repel" means to prevent the unlawful entry of
16 individuals, vehicles, or other animate or inanimate objects into
17 this state through the use of physical barriers, technology, or
18 other rules of engagement. The term includes preventing the
19 unauthorized entry of an individual at a port of entry.

20 (4) "Texas military forces" means the Texas National
21 Guard, the Texas State Guard, and any other military force
22 organized under state law.

23 (5) "Unlawful entry" means entering the United States
24 at any place other than a legal port of entry.

1 Sec. 425.002. DECLARATION OF INVASION OR IMMINENT DANGER.

2 (a) The governor may issue a declaration of imminent danger if the
3 governor finds that:

4 (1) the safety and security of this state and its
5 citizens are in imminent danger from threats by the unsecured
6 southern border of this state; and

7 (2) action to secure the border must be taken without
8 delay.

9 (b) The governor may issue a declaration of invasion if the
10 governor finds that this state is under invasion.

11 (c) The legislature may, by concurrent resolution adopted
12 by both houses of the legislature, issue a declaration of imminent
13 danger if the legislature finds that:

14 (1) the safety and security of this state and its
15 citizens are in imminent danger from threats by the unsecured
16 southern border of this state; and

17 (2) action to secure the border must be taken without
18 delay.

19 (d) The legislature may, by concurrent resolution adopted
20 by both houses of the legislature, issue a declaration of invasion
21 if the legislature finds that this state is under invasion.

22 Sec. 425.003. REQUIREMENT TO REPEL OR REMOVE. (a) During a
23 declaration of invasion or a declaration of imminent danger, the
24 Texas military forces and any law enforcement or peace officer in
25 this state shall take action necessary to repel any individual,
26 vehicle, or other animate or inanimate object attempting to make an
27 unlawful entry into this state.

1 (b) An individual who has made an unlawful entry into this
2 state shall be arrested and prosecuted for any violation of state
3 law before the individual is removed.

4 Sec. 425.004. TRANSPORT OF UNLAWFUL ENTRANTS PROHIBITED;
5 OFFENSE; FORFEITURE. (a) An individual commits an offense if the
6 individual knowingly transports another individual who has made an
7 unlawful entry into this state during a declaration of imminent
8 danger or declaration of invasion.

9 (b) An offense under this section is punishable in the
10 manner provided by Section 20.05(b), Penal Code, for the punishment
11 of the offenses included in that section.

12 (c) If a person is convicted of an offense under this
13 section, the court in its judgment of conviction shall order the
14 forfeiture of all contraband that is used in the commission of the
15 offense, as provided by Chapter 59, Code of Criminal Procedure.

16 Sec. 425.005. HANDOVER OF UNLAWFUL ENTRANTS TO FEDERAL
17 AUTHORITIES PROHIBITED. During a declaration of imminent danger or
18 a declaration of invasion, a member of the Texas military forces or
19 a law enforcement or peace officer in this state is prohibited from
20 handing over individuals who have made an unlawful entry to federal
21 authorities if the policies under which the federal authority is
22 operating would result in the release into the United States of
23 individuals who have made an unlawful entry.

24 SECTION 2. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2023.