

BILL ANALYSIS

C.S.H.B. 3376
By: Taylor
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

H.B. 3376, as substituted, amends the criminal offenses of money laundering and insurance fraud and related statutes to facilitate the investigation and prosecution of those offenses. The bill also standardizes the punishments for those offenses to make them consistent with the rest of the Penal Code, it increases the statute of limitations for felony insurance fraud, and it clarifies the effect of the commission of those offenses upon certain license holders and applicants.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 34.01 (Definitions), Penal Code, to clarify the definition of “funds” and “financial institution.” Also removes the redundant definition of “peace officer,” which is already defined under Section 1.07(36), Penal Code.

SECTION 2. Amends Section 34.02 (Money Laundering), Penal Code, to create a new manner and means of committing the offense of money laundering; clarifies culpable mental states under that section; makes the punishment value ladder more consistent with the standard punishments used throughout the Penal Code; allows aggregation of proceeds involved in one scheme or continuing course of conduct for determining level of offense; and provides that conduct that is prosecutable under Section 34.02 and another law can be prosecuted under either or both.

SECTION 3. Creates new Section 34.021, Penal Code, to provide immunity for civil liability for those acting in concert with law enforcement authorities.

SECTION 4. Amends Chapter 35 (Insurance Fraud), Penal Code, to redefine certain terms; to distinguish offenses involving claims from those involving applications for an insurance policy; to make the punishment value ladder consistent with the standard punishments used throughout the Penal Code; to provide that conduct that is prosecutable under Section 35.02 and another law can be prosecuted under either or both; and to create procedures for determining the proper value for a fraudulent insurance claim.

SECTION 5. Amends Section 71.02(a) (Engaging in Organized Criminal Activity), Penal Code, to add offenses under Chapter 35 (Insurance Fraud), Penal Code.

SECTION 6. Amends Article 12.01 (Felonies), Code of Criminal Procedure, to increase the statute of limitations for felony insurance fraud from 3 years to 5 years.

SECTION 7. Amends Chapter 42 (Community Supervision), Code of Criminal Procedure, to add new Article 42.0181, “Notice of Theft, Fraud, Money Laundering, or Insurance Fraud provided by Clerk of Court.”

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2005

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute makes the following changes from the bill as originally filed (section references are to the substitute):

SECTION 1. Deletes proposed new definitions for “conduct” and “transaction” and deletes change to definition of “proceeds.” Adds new language to definition of “funds.” Also removes the existing definition of “peace officer,” which is already defined under Section 1.07(36), Penal Code.

SECTION 2. Restores original language for offense of money laundering, and adds one new manner of committing that offense. Changes the proposed punishments for money laundering to make them consistent with the standard punishments used elsewhere in the Penal Code.

SECTION 3. Creates new Section 34.021, Penal Code, to provide immunity for civil liability for those acting in concert with law enforcement authorities.

SECTION 4. (Renumbered from Section 3 in original.) Changes proposed redefinition of “insurance policy” and “statement.” Deletes proposal to make materiality a question of law. Deletes proposed criminalization of reckless conduct. Restores offense under Section 35.02(b), Penal Code, but deletes references to specific types of insurance. Changes the punishment for Class C insurance fraud to make it consistent with the standard punishments used elsewhere in the Penal Code.

SECTION 5. Renumbered from Section 4. No changes.

SECTION 6. Renumbered from Section 5. Deletes extension of statute of limitations for misdemeanor insurance fraud offenses.

SECTION 7. Renumbered from Section 6. No changes. (Former Section 7 of the original, amending Section 5, Art. 42.12, Code of Criminal Procedure, is deleted from the substitute.)

SECTION 8. No changes.

SECTION 9. No changes.