

By: Zedler

H.B. No. 3207

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain criminal conduct in election matters; providing  
3 penalties.

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

5 SECTION 1. Section 64.036, Election Code, is amended to  
6 read as follows:

7 Sec. 64.036. UNLAWFUL ASSISTANCE. (a) A person commits an  
8 offense if the person knowingly:

9 (1) provides assistance to a voter who is not eligible  
10 for assistance;

11 (2) while assisting a voter prepares the voter's  
12 ballot in a way other than the way the voter directs or without  
13 direction from the voter;

14 (3) while assisting a voter suggests by word, sign, or  
15 gesture how the voter should vote; or

16 (4) provides assistance to a voter who has not  
17 requested assistance or selected the person to assist the voter.

18 (b) A person commits an offense if the person knowingly  
19 assists a voter in violation of Section 64.032(c).

20 (c) An election officer commits an offense if the officer  
21 knowingly permits a person to provide assistance:

22 (1) to a voter who is not eligible for assistance; or

23 (2) in violation of Section 64.032(c).

24 (d) An offense under this section is a felony of the third

1 degree [~~Class A misdemeanor~~].

2 SECTION 2. Section 86.006, Election Code, is amended to  
3 read as follows:

4 Sec. 86.006. METHOD OF RETURNING MARKED BALLOT. (a) A  
5 marked ballot voted under this chapter must be returned to the early  
6 voting clerk in the official carrier envelope. The carrier  
7 envelope may be delivered in another envelope and must be  
8 transported and delivered only by mail or by common or contract  
9 carrier.

10 (b) Except as provided by Subsection (c), a carrier envelope  
11 may not be returned in an envelope or package containing another  
12 carrier envelope.

13 (c) The carrier envelopes of persons who are registered to  
14 vote at the same address may be returned in the same envelope or  
15 package.

16 (d) Each carrier envelope that is delivered by a common or  
17 contract carrier must be accompanied by an individual delivery  
18 receipt for that particular carrier envelope that indicates the  
19 name and residence address of the individual who actually delivered  
20 the envelope to the carrier and the date, hour, and address at which  
21 the carrier envelope was received by the carrier. A delivery of  
22 carrier envelopes is prohibited by a common or contract carrier if  
23 the delivery originates from the address of:

24 (1) an office of a political party or a candidate in  
25 the election;

26 (2) a candidate in the election unless the address is  
27 the residence of the early voter;

1           (3) a specific-purpose or general-purpose political  
2 committee involved in the election; or

3           (4) an entity that requested that the election be  
4 held, unless the delivery is a forwarding to the early voting clerk.

5           (e) Carrier envelopes may not be collected and stored at  
6 another location for subsequent delivery to the early voting clerk.  
7 The secretary of state shall prescribe appropriate procedures to  
8 implement this subsection and to provide accountability for the  
9 delivery of the carrier envelopes from the voting place to the early  
10 voting clerk.

11           (f) A person commits an offense if the person knowingly  
12 possesses an official ballot or official carrier envelope provided  
13 under this code to another. Unless the person possessed the ballot  
14 or carrier envelope with intent to defraud the voter or the election  
15 authority, it is an affirmative defense to prosecution under this  
16 subsection that the person, on the date of the offense, was:

17           (1) related to the voter within the second degree by  
18 affinity or the third degree by consanguinity, as determined under  
19 Subchapter B, Chapter 573, Government Code;

20           (2) registered to vote at the same address as the  
21 voter;

22           (3) an early voting clerk or a deputy early voting  
23 clerk;

24           (4) a person who possesses the carrier envelope in  
25 order to deposit the envelope in the mail or with a common or  
26 contract carrier and who provides the information required by  
27 Section 86.0051(b) in accordance with that section;

1           (5) an employee of the United States Postal Service  
2 working in the normal course of the employee's authorized duties;  
3 or

4           (6) a common or contract carrier working in the normal  
5 course of the carrier's authorized duties if the official ballot is  
6 sealed in an official carrier envelope that is accompanied by an  
7 individual delivery receipt for that particular carrier envelope.

8           (g) An offense under Subsection (f) is:

9           (1) a Class A [~~B~~] misdemeanor if the person possesses  
10 or has possessed at least one but fewer than 3 [~~10~~] ballots or  
11 carrier envelopes during any one election cycle unless the person  
12 possesses the ballots or carrier envelopes without the consent of  
13 the voters, in which event the offense is a felony of the third  
14 degree [~~state jail felony~~]; or

15           (2) a felony of the third degree [~~Class A misdemeanor~~]  
16 if the person possesses or has possessed at least 3 [~~10 but fewer~~  
17 ~~than 20~~] ballots or carrier envelopes during any one election cycle  
18 unless the person possesses the ballots or carrier envelopes  
19 without the consent of the voters, in which event the offense is a  
20 felony of the second [~~third~~] degree[~~, or~~

21           ~~(3) a state jail felony if the person possesses 20 or~~  
22 ~~more ballots or carrier envelopes unless the person possesses the~~  
23 ~~ballots or carrier envelopes without the consent of the voters, in~~  
24 ~~which event the offense is a felony of the second degree.]~~

25           (h) A ballot returned in violation of this section may not  
26 be counted. If the early voting clerk determines that the ballot  
27 was returned in violation of this section, the clerk shall make a

1 notation on the carrier envelope and treat it as a ballot not timely  
2 returned in accordance with Section 86.011(c). If the ballot is  
3 returned before the end of the period for early voting by personal  
4 appearance, the early voting clerk shall promptly mail or otherwise  
5 deliver to the voter a written notice informing the voter that:

6 (1) the voter's ballot will not be counted because of a  
7 violation of this code; and

8 (2) the voter may vote if otherwise eligible at an  
9 early voting polling place or the election day precinct polling  
10 place on presentation of the notice.

11 SECTION 3. Section 86.010, Election Code, is amended to  
12 read as follows:

13 Sec. 86.010. ASSISTING VOTER. (a) A voter casting a  
14 ballot by mail who would be eligible under Section 64.031 to receive  
15 assistance at a polling place may select a person as provided by  
16 Section 64.032(c) to assist the voter in preparing the ballot.

17 (b) Assistance rendered under this section is limited to  
18 that authorized by this code at a polling place.

19 (c) The person assisting the voter must sign a written oath  
20 prescribed by Section 64.034 that is part of the certificate on the  
21 official carrier envelope.

22 (d) If a voter is assisted in violation of Subsection (a) or  
23 (b), the voter's ballot may not be counted.

24 (e) A person who assists a voter to prepare a ballot to be  
25 voted by mail shall enter the person's signature, printed name, and  
26 residence address on the official carrier envelope of the voter.

27 (f) A person commits an offense if the person knowingly

1 fails to provide the information on the official carrier envelope  
2 as required by Subsection (e).

3 (g) An offense under this section is a felony of the third  
4 degree [~~Class A misdemeanor~~] unless the person is convicted of an  
5 offense under Section 64.036 for providing unlawful assistance to  
6 the same voter, in which event the offense is a [~~state jail~~] felony  
7 of the second degree.

8 (h) Subsection (f) does not apply if the person is related  
9 to the applicant within the second degree by affinity or the third  
10 degree by consanguinity, as determined under Subchapter B, Chapter  
11 573, Government Code, or is registered to vote at the same address  
12 as the applicant.

13 SECTION 4. EFFECTIVE DATE. This Act takes effect  
14 immediately if it receives a vote of two-thirds of all the members  
15 elected to each house, as provided by Section 39, Article III, Texas  
16 Constitution. If this Act does not receive the vote necessary for  
17 immediate effect, this Act takes effect on the 91st day after the  
18 last day of the legislative session.