

By: Deuell

S.B. No. 1267

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the circumstances under which knowledge regarding the
3 receipt of stolen property by a pawnshop may be presumed for the
4 purposes of establishing theft; providing penalties.

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

6 SECTION 1. Section 31.03(c), Penal Code, is amended to read
7 as follows:

8 (c) For purposes of Subsection (b):

9 (1) evidence that the actor has previously
10 participated in recent transactions other than, but similar to,
11 that which the prosecution is based is admissible for the purpose of
12 showing knowledge or intent and the issues of knowledge or intent
13 are raised by the actor's plea of not guilty;

14 (2) the testimony of an accomplice shall be
15 corroborated by proof that tends to connect the actor to the crime,
16 but the actor's knowledge or intent may be established by the
17 uncorroborated testimony of the accomplice;

18 (3) an actor engaged in the business of buying and
19 selling used or secondhand personal property, or lending money on
20 the security of personal property deposited with the actor, is
21 presumed to know upon receipt by the actor of stolen property (other
22 than a motor vehicle subject to Chapter 501, Transportation Code)
23 that the property has been previously stolen from another if the
24 actor pays for or loans against the property \$25 or more (or

1 consideration of equivalent value) and the actor knowingly or
2 recklessly:

3 (A) fails to take a photograph by electronic
4 means and record the name, address, and [~~physical description or~~]
5 identification number of the seller or pledgor;

6 (B) fails to record a complete description of the
7 property, including the serial number, if reasonably available, or
8 other identifying characteristics; or

9 (C) fails to obtain a signed warranty from the
10 seller or pledgor that the seller or pledgor has the right to
11 possess the property. It is the express intent of this provision
12 that the presumption arises unless the actor complies with each of
13 the numbered requirements;

14 (4) for the purposes of Subdivision (3)(A),
15 "identification number" means driver's license number, military
16 identification number, identification certificate, or other
17 official number capable of identifying an individual;

18 (5) stolen property does not lose its character as
19 stolen when recovered by any law enforcement agency;

20 (6) an actor engaged in the business of obtaining
21 abandoned or wrecked motor vehicles or parts of an abandoned or
22 wrecked motor vehicle for resale, disposal, scrap, repair,
23 rebuilding, demolition, or other form of salvage is presumed to
24 know on receipt by the actor of stolen property that the property
25 has been previously stolen from another if the actor knowingly or
26 recklessly:

27 (A) fails to maintain an accurate and legible

1 inventory of each motor vehicle component part purchased by or
2 delivered to the actor, including the date of purchase or delivery,
3 the name, age, address, sex, and driver's license number of the
4 seller or person making the delivery, the license plate number of
5 the motor vehicle in which the part was delivered, a complete
6 description of the part, and the vehicle identification number of
7 the motor vehicle from which the part was removed, or in lieu of
8 maintaining an inventory, fails to record the name and certificate
9 of inventory number of the person who dismantled the motor vehicle
10 from which the part was obtained;

11 (B) fails on receipt of a motor vehicle to obtain
12 a certificate of authority, sales receipt, or transfer document as
13 required by Chapter 683, Transportation Code, or a certificate of
14 title showing that the motor vehicle is not subject to a lien or
15 that all recorded liens on the motor vehicle have been released; or

16 (C) fails on receipt of a motor vehicle to
17 immediately remove an unexpired license plate from the motor
18 vehicle, to keep the plate in a secure and locked place, or to
19 maintain an inventory, on forms provided by the Texas Department of
20 Transportation, of license plates kept under this paragraph,
21 including for each plate or set of plates the license plate number
22 and the make, motor number, and vehicle identification number of
23 the motor vehicle from which the plate was removed;

24 (7) an actor who purchases or receives a used or
25 secondhand motor vehicle is presumed to know on receipt by the actor
26 of the motor vehicle that the motor vehicle has been previously
27 stolen from another if the actor knowingly or recklessly:

1 (A) fails to report to the Texas Department of
2 Transportation the failure of the person who sold or delivered the
3 motor vehicle to the actor to deliver to the actor a properly
4 executed certificate of title to the motor vehicle at the time the
5 motor vehicle was delivered; or

6 (B) fails to file with the county tax
7 assessor-collector of the county in which the actor received the
8 motor vehicle, not later than the 20th day after the date the actor
9 received the motor vehicle, the registration license receipt and
10 certificate of title or evidence of title delivered to the actor in
11 accordance with Subchapter D, Chapter 520, Transportation Code, at
12 the time the motor vehicle was delivered;

13 (8) an actor who purchases or receives from any source
14 other than a licensed retailer or distributor of pesticides a
15 restricted-use pesticide or a state-limited-use pesticide or a
16 compound, mixture, or preparation containing a restricted-use or
17 state-limited-use pesticide is presumed to know on receipt by the
18 actor of the pesticide or compound, mixture, or preparation that
19 the pesticide or compound, mixture, or preparation has been
20 previously stolen from another if the actor:

21 (A) fails to record the name, address, and
22 physical description of the seller or pledgor;

23 (B) fails to record a complete description of the
24 amount and type of pesticide or compound, mixture, or preparation
25 purchased or received; and

26 (C) fails to obtain a signed warranty from the
27 seller or pledgor that the seller or pledgor has the right to

1 possess the property; and

2 (9) an actor who is subject to Section 409, Packers and
3 Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from
4 a commission merchant by representing that the actor will make
5 prompt payment is presumed to have induced the commission
6 merchant's consent by deception if the actor fails to make full
7 payment in accordance with Section 409, Packers and Stockyards Act
8 (7 U.S.C. Section 228b).

9 SECTION 2. The change in law made by this Act applies only
10 to an offense committed on or after the effective date of this Act.
11 An offense committed before the effective date of this Act is
12 covered by the law in effect when the offense was committed, and the
13 former law is continued in effect for that purpose. For purposes of
14 this section, an offense was committed before the effective date of
15 this Act if any element of the offense was committed before that
16 date.

17 SECTION 3. This Act takes effect September 1, 2005.