

## **BILL ANALYSIS**

C.S.H.B. 2307  
By: Talton  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

First responders use a number of devices to communicate with each other. This includes radios mounted in a vehicle, hand held radios, and mobile data terminals. Because of the portability of these equipment it is subject to theft. Though a person can be charged with the theft, there is not a current criminal offense for the unauthorized use of this equipment. For example, there have been instances where police hand held radios have been lost or stolen and then someone uses the radio to broadcast over the radio channel. These broadcasts can disrupt the ability of first responders to perform their duties.

As proposed, C.S.H.B. 2307 would create a new criminal offense for the unauthorized use of an emergency communications device. An offense would be a Class A misdemeanor, unless the actor, during the commission of the offense, interferes with the ability of a first responder to respond to an emergency or diverts a first responder in order to facilitate another criminal offense, in which case the offense would be a felony of the third degree.

### **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**

C.S.H.B. 2307 creates Section 42.063, Penal Code, titled "Unauthorized Use of Emergency Communications Device." The bill defines the terms "emergency," "emergency communications device," and "first responder." "Emergency" means a condition or circumstance in which an individual is in imminent danger of serious bodily injury or in which property is in imminent danger of damage or destruction. "Emergency communications device" means any device that is owned by a governmental entity and routinely used by first responders to communicate with each other and with employers of first responders, or a device capable of transmitting over a radio frequency that is routinely used by first responders to transmit or receive communications. "First responder" has the meaning assigned by Section 421.095, Government Code.

The bill also provides that a person commits an offense if the person, without authorization, intentionally, knowingly, or recklessly uses an emergency communications device, transmits a communication by using an emergency communications device, or transmits over a radio frequency routinely used by first responders to transmit or receive communications through emergency communications devices. This offense is a Class A misdemeanor. However, if, during the commission of the offense, the actor interferes with the ability of a first responder to respond to an emergency, or diverts a first responder from a location with the intent to facilitate the commission of another criminal offense by any person, then the offense is a third degree felony. If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original bill defined “emergency communications device” as a device routinely used by first responders to report emergencies. The substitute defines "emergency communications device" as any device that is owned by a governmental entity and routinely used by first responders to communicate with each other and with employers of first responders, or a device capable of transmitting over a radio frequency that is routinely used by first responders to transmit or receive communications.

The substitute adds that a person commits a Class A misdemeanor offense if the person, without authorization, intentionally, knowingly, or recklessly transmits over a radio frequency routinely used by first responders to transmit or receive communications through emergency communications devices.

The substitute adds that if, during the commission of the offense, the actor diverts a first responder from a location with the intent to facilitate the commission of another criminal offense by any person, then the offense is a third degree felony.