

By: Martinez Fischer

H.B. No. 1797

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain criminal penalties for and civil consequences
3 of damaging property with graffiti.

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

5 SECTION 1. Section 28.08(b), Penal Code, is amended to read
6 as follows:

7 (b) Except as provided by Subsection (d), an offense under
8 this section is:

9 (1) [~~a Class B misdemeanor if the amount of pecuniary~~
10 ~~loss is less than \$500;~~

11 [~~(2)~~] a Class A misdemeanor if the amount of pecuniary
12 loss is [~~\$500 or more but~~] less than \$1,500;

13 (2) [~~(3)~~] a state jail felony if the amount of
14 pecuniary loss is \$1,500 or more but less than \$20,000;

15 (3) [~~(4)~~] a felony of the third degree if the amount of
16 pecuniary loss is \$20,000 or more but less than \$100,000;

17 (4) [~~(5)~~] a felony of the second degree if the amount
18 of pecuniary loss is \$100,000 or more but less than \$200,000; or

19 (5) [~~(6)~~] a felony of the first degree if the amount of
20 pecuniary loss is \$200,000 or more.

21 SECTION 2. Section 521.320, Transportation Code, is amended
22 to read as follows:

23 Sec. 521.320. SUSPENSION FOR CERTAIN CRIMINAL MISCHIEF;
24 LICENSE DENIAL. (a) A court shall [~~may~~] order the department to

1 suspend a person's driver's license on conviction of an offense
2 under Section 28.08, Penal Code.

3 (b) A court shall [~~may~~] order the department to deny an
4 application for reinstatement or issuance of a driver's license to
5 a person convicted of an offense under Section 28.08, Penal Code,
6 who, on the date of the conviction, did not hold a driver's license.

7 (c) Except as provided by this section:

8 (1) the [~~The~~] period of suspension under Subsection
9 (a) [~~this section~~] is one year after the date of a final conviction;
10 and

11 (2) the [~~The~~] period of license denial under
12 Subsection (b) is one year after the date the person applies to the
13 department for reinstatement or issuance of a driver's license.

14 (d) The department may not reinstate a driver's license
15 suspended under Subsection (a) unless the person whose license was
16 suspended applies to the department for reinstatement and provides
17 proof satisfactory to the department that the person has performed
18 the community service required of the person under Subsection (f).

19 (e) A person whose license is suspended under Subsection (a)
20 remains eligible to receive an occupational license under
21 Subchapter L, except that if the person is younger than 18 years of
22 age, an occupational license issued to the person may permit the
23 operation of a motor vehicle only for transportation to and from an
24 educational facility in which the person is enrolled and the place
25 where the person resides.

26 (f) A court that orders the suspension or denial of a
27 person's driver's license under this section shall require the

1 person to perform at least 100 hours of community service
2 designated by the court. If the person is a resident of this state
3 without a driver's license to operate a motor vehicle, the court
4 shall issue an order prohibiting the department from issuing the
5 person a driver's license before the person completes the community
6 service. Community service required under this subsection is in
7 addition to any community service required of the person as a
8 condition of community supervision under Section 16, Article 42.12,
9 Code of Criminal Procedure.

10 (g) If a person required to perform community service under
11 Subsection (f) completes that community service before the period
12 of the person's license suspension or denial expires, the person
13 may apply to the department for reinstatement of the person's
14 license or the issuance of a new license. The application must
15 include proof satisfactory to the department that the person has
16 performed the community service.

17 (h) If a person whose license is suspended under this
18 section is convicted of a second or subsequent offense under
19 Section 28.08, Penal Code, during the period of license suspension,
20 the court in which the person is convicted of the second or
21 subsequent offense shall revoke the person's license until the
22 first anniversary of the most recent date of conviction under
23 Section 28.08, Penal Code, and may not reinstate the person's
24 license or issue the person a new license before the expiration of
25 the period the license is revoked.

26 (i) For the purposes of this section, a person is convicted
27 of an offense regardless of whether sentence is imposed or the

1 person is placed on community supervision for the offense under
2 Article 42.12, Code of Criminal Procedure.

3 SECTION 3. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect when the offense was committed, and
7 the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense was
10 committed before that date.

11 SECTION 4. This Act takes effect September 1, 2007.