

By: Carona

S.B. No. 11

A BILL TO BE ENTITLED

AN ACT

relating to homeland security; providing penalties.

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

ARTICLE 1. CERTAIN DISASTER RESPONSE PROCEDURES FOR POLITICAL
SUBDIVISIONS

SECTION 1.01. Section 418.004, Government Code, is amended
by adding Subdivisions (10) through (14) to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

SECTION 1.02. Subchapter E, Chapter 418, Government Code,

1 is amended by adding Section 418.1015 to read as follows:

2 Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The
3 presiding officer of the governing body of an incorporated city or a
4 county or the chief administrative officer of a joint board is
5 designated as the emergency management director for the officer's
6 political subdivision.

7 (b) An emergency management director serves as the
8 governor's designated agent in the administration and supervision
9 of duties under this chapter. An emergency management director may
10 exercise the powers granted to the governor under this chapter on an
11 appropriate local scale.

12 (c) An emergency management director may designate a person
13 to serve as emergency management coordinator. The emergency
14 management coordinator shall serve as an assistant to the emergency
15 management director for emergency management purposes.

16 SECTION 1.03. Subsection (c), Section 418.107, Government
17 Code, is amended to read as follows:

18 (c) A local government entity [~~political subdivision or~~
19 ~~regional planning commission~~] may render mutual aid to other local
20 government entities [~~political subdivisions or regional planning~~
21 ~~commissions~~] under mutual aid agreements or the system.

22 SECTION 1.04. The heading to Section 418.109, Government
23 Code, is amended to read as follows:

24 Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE.

25 SECTION 1.05. Subsection (d), Section 418.109, Government
26 Code, is amended to read as follows:

27 (d) A local government entity or [~~municipality, county,~~

1 ~~emergency services district, fire protection agency, regional~~
2 ~~planning commission,~~ organized volunteer group[~~, or other~~
3 ~~emergency services entity~~] may provide mutual aid assistance on
4 request from another local government entity or [~~municipality,~~
5 ~~county, emergency services district, fire protection agency,~~
6 ~~regional planning commission,~~] organized volunteer group[~~, or~~
7 ~~other emergency services entity~~]. The chief or highest ranking
8 officer of the entity from which assistance is requested, with the
9 approval and consent of the presiding officer of the governing body
10 of that entity, may provide that assistance while acting in
11 accordance with the policies, ordinances, and procedures
12 established by the governing body of that entity [~~and consistent~~
13 ~~with any mutual aid plans developed by the emergency management~~
14 ~~council~~].

15 SECTION 1.06. Section 418.110, Government Code, is amended
16 to read as follows:

17 Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE
18 EMERGENCIES. (a) The division, in consultation with state fire
19 protection agencies and the Texas Commission on Fire Protection,
20 may [~~shall~~] develop a statewide mutual aid program for fire
21 emergencies.

22 (b) A program developed under this section:
23 (1) does not alter the legal obligations of a
24 political subdivision participating in the system; and
25 (2) must be consistent with the state emergency
26 management plan.

27 SECTION 1.07. Chapter 418, Government Code, is amended by

1 adding Subchapter E-1 to read as follows:

2 SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

3 Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID
4 SYSTEM. (a) The Texas Statewide Mutual Aid System is established
5 to provide integrated statewide mutual aid response capability
6 between local government entities without a written mutual aid
7 agreement.

8 (b) A request for mutual aid assistance between local
9 government entities is considered to be made under the system,
10 unless the requesting and responding entities are parties to a
11 written mutual aid agreement in effect when the request is made.

12 (c) This subchapter does not affect a written mutual aid
13 agreement between local government entities in effect on or before
14 the effective date of this subchapter or restrict the ability of
15 local government entities to enter into a written mutual aid
16 agreement as otherwise authorized by statute after the effective
17 date of this subchapter. If a request is made between local
18 government entities that are parties to a written mutual aid
19 agreement, the terms of that agreement control the rights and
20 obligations of the parties.

21 Sec. 418.112. ADMINISTRATION BY DIVISION. The division
22 shall administer the system. In administering the system, the
23 division shall encourage and assist political subdivisions in
24 planning and implementing comprehensive all-hazards emergency
25 management programs, including assisting political subdivisions to
26 ensure that the local emergency management plan of each subdivision
27 adequately provides for the rendering and receipt of mutual aid.

1 Sec. 418.113. DISASTER DISTRICTS. (a) This state is
2 divided into disaster districts to engage in homeland security
3 preparedness and response activities. The boundaries of the
4 disaster districts coincide with the geographic boundaries of the
5 state planning regions established by the governor under Chapter
6 391, Local Government Code.

7 (b) A disaster district committee is established for each
8 disaster district. Each committee is composed of local
9 representatives of the state agencies, boards, and commissions and
10 organized volunteer groups with representation on the emergency
11 management council.

12 (c) Each disaster district committee shall coordinate with
13 political subdivisions located in the disaster district to ensure
14 that state and federal emergency assets are made available as
15 needed to provide the most efficient and effective response
16 possible.

17 (d) The public safety director of the Department of Public
18 Safety of the State of Texas shall appoint a commanding officer from
19 the Texas Highway Patrol to serve as chair of each disaster district
20 committee. The chair shall:

21 (1) inform the state Director of Homeland Security on
22 all matters relating to disasters and emergencies as requested by
23 the state Director of Homeland Security; and

24 (2) inform the public safety director of the
25 Department of Public Safety of the State of Texas on all matters as
26 requested by the public safety director.

27 (e) Representatives of the emergency management council

1 assigned to each district shall assist the chair of their disaster
2 district committee and provide guidance, counsel, and
3 administrative support as required.

4 Sec. 418.114. PROCEDURES FOR MUTUAL AID. (a) The
5 political subdivisions in each state planning region established by
6 the governor under Chapter 391, Local Government Code, shall agree
7 on procedures that specify the manner in which mutual aid will be
8 provided in response to a request from a political subdivision in
9 the district or another district or from this state.

10 (b) A copy of the procedures must be provided to the
11 division and the disaster district committee chair.

12 Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID
13 ASSISTANCE. (a) A request for mutual aid assistance may be
14 submitted verbally or in writing. If a request is submitted
15 verbally, it must be confirmed in writing not later than the 30th
16 day after the date the request was made.

17 (b) If a request for mutual aid assistance is made to a
18 department or agency of a political subdivision, the chief or
19 highest ranking officer of the department or agency, with the
20 approval and consent of the presiding officer of the governing body
21 of the political subdivision or that officer's designee, may
22 provide the requested assistance in accordance with the policies,
23 ordinances, and procedures established by the governing body of the
24 political subdivision.

25 Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE.
26 (a) When contacted with a request for mutual aid assistance, a
27 local government entity shall assess local resources to determine

1 availability of personnel, equipment, and other assistance to
2 respond to the request.

3 (b) A responding local government entity may provide
4 assistance to the extent personnel, equipment, and resources are
5 determined to be available. A local government entity is not
6 required to provide mutual aid assistance unless the entity
7 determines that the entity has sufficient resources to provide
8 assistance, based on current or anticipated events in its
9 jurisdiction.

10 Sec. 418.1152. SUPERVISION AND CONTROL. When providing
11 mutual aid assistance under the system:

12 (1) the response effort must be organized and function
13 in accordance with the National Incident Management System
14 guidelines;

15 (2) the personnel, equipment, and resources of a
16 responding local government entity being used in the response
17 effort are under the operational control of the requesting local
18 government entity unless otherwise agreed;

19 (3) direct supervision and control of personnel,
20 equipment, and resources and personnel accountability remain the
21 responsibility of the designated supervisory personnel of the
22 responding local government entity;

23 (4) unless otherwise agreed in advance, an emergency
24 medical service organization providing assistance under the system
25 shall use the medical protocols authorized by the organization's
26 medical director;

27 (5) the designated supervisory personnel of the

1 responding local government entity shall:

2 (A) maintain daily personnel time records,
3 material records, and a log of equipment hours;

4 (B) be responsible for the operation and
5 maintenance of the equipment and other resources furnished by the
6 responding local government entity; and

7 (C) report work progress to the requesting local
8 government entity; and

9 (6) the responding local government entity's personnel
10 and other resources are subject to recall at any time, subject to
11 reasonable notice to the requesting local government entity.

12 Sec. 418.1153. DURATION OF AID. The provision of mutual aid
13 assistance under the system may continue until:

14 (1) the services of the responding local government
15 entity are no longer required; or

16 (2) the responding local government entity determines
17 that further assistance should not be provided.

18 Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person
19 assigned, designated, or ordered to perform duties by the governing
20 body of the local government entity employing the person in
21 response to a request under the system is entitled to receive the
22 same wages, salary, pension, and other compensation and benefits,
23 including injury or death benefits, disability payments, and
24 workers' compensation benefits, for the performance of the duties
25 under the system as though the services were rendered for the entity
26 employing the person.

27 (b) The local government entity employing the person is

1 responsible for the payment of wages, salary, pension, and other
2 compensation and benefits associated with the performance of duties
3 under the system.

4 Sec. 418.117. LICENSE PORTABILITY. If the assistance of a
5 person who holds a license, certificate, permit, or other document
6 evidencing qualification in a professional, mechanical, or other
7 skill is requested by a local government entity under the system,
8 the person is considered licensed, certified, permitted, or
9 otherwise documented in the political subdivision in which the
10 service is provided as long as the service is required, subject to
11 any limitations imposed by the chief executive officer or the
12 governing body of the requesting local government entity.

13 Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR
14 FEDERAL DISASTER DECLARATION. (a) The division shall administer
15 all requests for reimbursement for costs associated with providing
16 mutual aid assistance in response to a request made by the division
17 for an incident resulting in the issuance of a disaster declaration
18 by the president of the United States. A request for reimbursement
19 made to the division must be made in accordance with procedures
20 developed by the division.

21 (b) The division may directly request the provision of
22 mutual aid assistance from any local government entity
23 participating in the system. If the division requests the
24 provision of assistance and the local government entity responds,
25 the state shall reimburse the actual costs of providing assistance,
26 including costs for personnel, operation and maintenance of
27 equipment, damaged equipment, food, lodging, and transportation,

1 incurred by the responding local government entity. The state
2 shall pay reimbursements from available state money. If funds are
3 made available from the disaster contingency fund, the division
4 shall make reimbursement from the disaster contingency fund for
5 eligible expenses to the extent that available state money is
6 inadequate.

7 (c) If federal money is available to pay costs associated
8 with the provision of mutual aid assistance in response to a request
9 made by the division, the division shall make the claim for the
10 eligible costs of the responding local government entity on the
11 division's grant application and shall disburse the federal share
12 of the money to the responding local government entity, with
13 sufficient state funds to cover the actual costs incurred by the
14 responding local government entity in providing the assistance.

15 Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL
16 GOVERNMENT ENTITY. (a) If a local government entity requests
17 mutual aid assistance from another local government entity under
18 the system, the requesting local government entity shall reimburse
19 the actual costs of providing mutual aid assistance to the
20 responding local government entity, including costs for personnel,
21 operation and maintenance of equipment, damaged equipment, food,
22 lodging, and transportation, incurred by the responding local
23 government entity in response to a request for reimbursement.
24 Local government entities with a mutual aid agreement when the
25 request for mutual aid assistance is made are subject to the
26 agreement's terms of reimbursement, as provided by Section 418.111.

27 (b) The requesting local government entity shall pay the

1 reimbursement from available funds. If federal money is available
2 to pay costs associated with the provision of mutual aid
3 assistance, the requesting local government entity shall make the
4 claim for the eligible costs of the responding local government
5 entity on the requesting entity's subgrant application and shall
6 disburse the federal share of the money to the responding local
7 government entity, with sufficient local funds to cover the actual
8 costs of the responding local government entity in providing
9 assistance.

10 SECTION 1.08. Subdivision (9), Section 418.004, and
11 Subsections (a), (b), and (c), Section 418.109, Government Code,
12 are repealed.

13 SECTION 1.09. This article takes effect immediately if this
14 Act receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this article takes effect September 1, 2007.

18 ARTICLE 2. PREPAID MOBILE TELEPHONES

19 SECTION 2.01. Title 4, Business & Commerce Code, is amended
20 by adding Chapter 51 to read as follows:

21 CHAPTER 51. SALE OF MOBILE TELEPHONES

22 Sec. 51.01. DEFINITIONS. In this chapter:

23 (1) "Activation" means the process after which a
24 wireless service provider has turned on service and a mobile
25 telephone is capable of making and receiving a call.

26 (2) "Business establishment" includes an online
27 vendor.

1 (3) "Mobile telephone" includes a cellular telephone
2 or similar wireless communication device that can be used as a
3 telephone and for which a monthly bill is received. The term does
4 not include an amateur radio.

5 (4) "Prepaid mobile telephone" means a mobile
6 telephone for which access to a wireless communication service is
7 not under a term contract and for which a monthly bill is not
8 received. The term does not include an amateur radio.

9 (5) "Valid identifying information" includes, but is
10 not limited to, a credit card or debit card.

11 Sec. 51.02. RESTRICTION ON SALE OF PREPAID MOBILE
12 TELEPHONE. A business establishment that sells a prepaid mobile
13 telephone may not sell a person more than five prepaid mobile
14 telephones from the establishment during a single transaction,
15 unless the customer provides proof of:

16 (1) nonprofit status; or

17 (2) employment by a governmental entity or political
18 subdivision.

19 Sec. 51.03. CERTAIN INFORMATION REQUIRED; OFFENSE. (a) A
20 purchaser of a prepaid mobile telephone must provide the wireless
21 service provider or other business establishment activating the
22 prepaid mobile telephone with:

23 (1) the information necessary to make the record
24 required by Section 51.04; and

25 (2) valid identifying information.

26 (b) A purchaser who provides false or misleading
27 information when providing information required under this section

1 commits an offense. An offense under this subsection is a Class A
2 misdemeanor. If conduct constituting an offense under this
3 subsection also constitutes an offense under another law, the actor
4 may be prosecuted under this subsection, the other law, or both.

5 (c) A wireless service provider or other business
6 establishment is not liable for the validity or authenticity of the
7 information collected under this section.

8 Sec. 51.04. PREREQUISITES TO ACTIVATION OF PREPAID MOBILE
9 TELEPHONE. Before completing an activation of a prepaid mobile
10 telephone, the entity that provides wireless service to the mobile
11 telephone shall make a record of the activation, including the name
12 and one of the following of the consumer activating the telephone:

- 13 (1) address;
14 (2) date of birth; or
15 (3) social security number.

16 Sec. 51.05. MAINTENANCE OF RECORDS. Unless otherwise
17 provided by federal law, the entity that provides wireless service
18 to the prepaid mobile telephone shall maintain all records made
19 under Section 51.04 and corresponding information received under
20 Section 51.03 in a secure location. The entity shall maintain each
21 record until at least the first anniversary of the date the record
22 is made or the date the information is received.

23 Sec. 51.06. CIVIL PENALTY. (a) A business establishment
24 or wireless service provider that violates this chapter is subject
25 to a civil penalty of \$1,000 for each violation.

26 (b) The attorney general may bring suit to recover a civil
27 penalty under this chapter.

ARTICLE 3. AMATEUR RADIO OPERATORS

SECTION 3.01. Subchapter Z, Chapter 661, Government Code, is amended by adding Section 661.919 to read as follows:

Sec. 661.919. AMATEUR RADIO OPERATORS. (a) A state employee who holds an amateur radio station license issued by the Federal Communications Commission may be granted leave not to exceed 10 days each fiscal year to participate in specialized disaster relief services without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time if the leave is taken:

(1) with the authorization of the employee's supervisor; and

(2) with the approval of the governor.

(b) The number of amateur radio operators who are eligible for leave under this section may not exceed 350 state employees at any one time during a state fiscal year. The division of emergency management in the governor's office shall coordinate the establishment and maintenance of the list of eligible employees.

SECTION 3.02. Subsection (c), Section 37.082, Education Code, is amended to read as follows:

(c) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

1 ARTICLE 4. CERTAIN OPEN MEETINGS PROVISIONS RELATED TO SCHOOLS AND
2 GOVERNMENTAL BODIES; TEXAS SCHOOL SAFETY CENTER

3 SECTION 4.01. Subsection (b), Section 12.1051, Education
4 Code, is amended to read as follows:

5 (b) With respect to the operation of an open-enrollment
6 charter school, any requirement in Chapter 551 or 552, Government
7 Code, or another law that concerns open meetings or the
8 availability of information, that applies to a school district, the
9 board of trustees of a school district, or public school students
10 applies to an open-enrollment charter school, the governing body of
11 a charter holder, the governing body of an open-enrollment charter
12 school, or students attending an open-enrollment charter school.

13 SECTION 4.02. Subsection (c), Section 37.108, Education
14 Code, is amended to read as follows:

15 (c) A school district shall report the results of the
16 security audit conducted under Subsection (b) to the district's
17 board of trustees and, in the manner required by the Texas School
18 Safety Center, to the Texas School Safety Center.

19 SECTION 4.03. Subsection (a), Section 37.203, Education
20 Code, is amended to read as follows:

21 (a) The center is advised by a board of directors composed
22 of:

23 (1) the attorney general, or the attorney general's
24 designee;

25 (2) the commissioner, or the commissioner's designee;

26 (3) the executive director of the Texas Juvenile
27 Probation Commission, or the executive director's designee;

1 (4) the executive director of the Texas Youth
2 Commission, or the executive director's designee;

3 (5) the commissioner of the [~~Texas~~] Department of
4 State [~~Mental~~] Health Services [~~and Mental Retardation~~], or the
5 commissioner's designee; [~~and~~]

6 (6) the commissioner of higher education, or the
7 commissioner's designee; and

8 (7) the following members appointed by the governor
9 with the advice and consent of the senate:

10 (A) a juvenile court judge;

11 (B) a member of a school district's board of
12 trustees;

13 (C) an administrator of a public primary school;

14 (D) an administrator of a public secondary
15 school;

16 (E) a member of the state parent-teacher
17 association;

18 (F) a teacher from a public primary or secondary
19 school;

20 (G) a public school superintendent who is a
21 member of the Texas Association of School Administrators;

22 (H) a school district police officer or a peace
23 officer whose primary duty consists of working in a public school;
24 and

25 (I) two members of the public.

26 SECTION 4.04. Section 37.207, Education Code, is amended to
27 read as follows:

1 Sec. 37.207. MODEL SAFETY AND SECURITY AUDIT PROCEDURE.

2 (a) The center shall develop a model safety and security audit
3 procedure for use by school districts that includes:

4 (1) providing each district with guidelines and a
5 training video showing proper audit procedures;

6 (2) reviewing each district audit, providing the
7 results of the review to the district, and making recommendations
8 for improvements based on the audit; and

9 (3) incorporating the findings of district audits in a
10 statewide report on school safety made available by the center to
11 the public.

12 (b) Each school district shall report the results of its
13 audits to the center in the manner required by the center.

14 SECTION 4.05. Subchapter G, Chapter 37, Education Code, is
15 amended by adding Section 37.213 to read as follows:

16 Sec. 37.213. INSTITUTIONS OF HIGHER EDUCATION. (a) In
17 this section, "institution of higher education" has the meaning
18 assigned by Section 61.003.

19 (b) An institution of higher education may use any
20 appropriate model plan developed by the center under Section
21 37.205(4).

22 (c) The center may provide an institution of higher
23 education with on-site technical assistance and safety training.

24 (d) The center may charge a fee to an institution of higher
25 education for assistance and training provided under Subsection
26 (c).

27 SECTION 4.06. Section 551.076, Government Code, is amended

1 to read as follows:

2 Sec. 551.076. DELIBERATION REGARDING SECURITY DEVICES,
3 SECURITY AUDITS, OR EMERGENCY OPERATIONS PLANS; CLOSED MEETING.

4 This chapter does not require a governmental body to conduct an open
5 meeting to deliberate:

6 (1) the deployment, or specific occasions for
7 implementation, of security personnel or devices;

8 (2) a security audit; or

9 (3) an emergency operations plan.

10 ARTICLE 5. PROVISIONS RELATED TO TOLL ROADS

11 SECTION 5.01. Subtitle G, Title 6, Transportation Code, is
12 amended by adding Chapter 371 to read as follows:

13 CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL
14 PROJECT

15 Sec. 371.001. VEHICLES USED BY NONPROFIT DISASTER RELIEF
16 ORGANIZATIONS. (a) In this section:

17 (1) "Toll project" means a toll project described by
18 Section 201.001(b), regardless of whether the toll project is:

19 (A) a part of the state highway system; or

20 (B) subject to the jurisdiction of the
21 department.

22 (2) "Toll project entity" means an entity authorized
23 by law to acquire, design, construct, finance, operate, and
24 maintain a toll project, including:

25 (A) the department under Chapter 227 or 228;

26 (B) a regional tollway authority under Chapter
27 366;

1 (C) a regional mobility authority under Chapter
2 370; or

3 (D) a county under Chapter 284.

4 (b) A toll project entity may not require a vehicle
5 registered under Section 502.203 to pay a toll for the use of a toll
6 project.

7 SECTION 5.02. Subsection (d), Section 228.058,
8 Transportation Code, is repealed.

9 ARTICLE 6. OPERATION OF DESIGNATED EMERGENCY VEHICLES

10 SECTION 6.01. Section 418.013, Government Code, is amended
11 by adding Subsection (c) to read as follows:

12 (c) The emergency management council shall make
13 recommendations to the Department of Public Safety as to which
14 private emergency organizations, such as the American National Red
15 Cross, the Salvation Army, Radio Amateur Civil Emergency Service,
16 and other similar organizations with the capability to supplement
17 the state's resources in disaster situations, should be authorized
18 to operate certain vehicles as designated emergency vehicles in the
19 case of a disaster.

20 SECTION 6.02. Subchapter A, Chapter 546, Transportation
21 Code, is amended by adding Section 546.006 to read as follows:

22 Sec. 546.006. DESIGNATED EMERGENCY VEHICLE DURING DECLARED
23 DISASTERS. (a) From recommendations made under Section
24 418.013(c), Government Code, the department shall designate which
25 vehicles may be operated by which designated organizations as
26 emergency vehicles during declared disasters.

27 (b) A vehicle designated under Subsection (a) may be

1 operated by a designated organization as if the vehicle were an
2 authorized emergency vehicle under this subtitle if:

3 (1) the governor declares a state of disaster under
4 Section 418.014, Government Code;

5 (2) the department requests assistance from the
6 designated organization; and

7 (3) the vehicle is operated by the designated
8 organization or a member of the designated organization in response
9 to the state of disaster.

10 (c) The department shall adopt rules as necessary to
11 implement this section.

12 ARTICLE 7. INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC
13 COMMUNICATIONS

14 SECTION 7.01. Subdivision (1), Section 1, Article 18.20,
15 Code of Criminal Procedure, is amended to read as follows:

16 (1) "Wire communication" means an aural transfer made
17 in whole or in part through the use of facilities for the
18 transmission of communications by the aid of wire, cable, or other
19 like connection between the point of origin and the point of
20 reception, including the use of such a connection in a switching
21 station, furnished or operated by a person authorized to engage in
22 providing or operating the facilities for the transmission of
23 communications as a communications common carrier. [~~The term~~
24 ~~includes the electronic storage of a wire communication.~~]

25 SECTION 7.02. Article 18.20, Code of Criminal Procedure, is
26 amended by amending Section 4 and adding Section 9A to read as
27 follows:

1 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED.

2 A judge of competent jurisdiction may issue an order authorizing
3 interception of wire, oral, or electronic communications only if
4 the prosecutor applying for the order shows probable cause to
5 believe that the interception will provide evidence of the
6 commission of:

7 (1) a felony under Section 19.02, 19.03, or 43.26,
8 Penal Code;

9 (2) a felony under:

10 (A) Chapter 481, Health and Safety Code, other
11 than felony possession of marihuana;

12 (B) Section 485.033, Health and Safety Code; or

13 (C) Chapter 483, Health and Safety Code; [~~or~~]

14 (3) an offense under Chapter 20, 20A, or 34, Penal
15 Code; or

16 (4) an attempt, conspiracy, or solicitation to commit
17 an offense listed in this section.

18 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED
19 PERSON. (a) Notwithstanding Section 8(a)(2)(B), an application
20 for an order authorizing the interception of a wire, oral, or
21 electronic communication is not required to contain a particular
22 description of the nature and location of the facilities from which
23 or the place where the communication is to be intercepted if a judge
24 of competent jurisdiction determines the person whose
25 communications are to be intercepted is likely to circumvent the
26 order by changing communication devices repeatedly or there are
27 exigent circumstances requiring that the order:

1 (1) apply to any communication by the person whose
2 communications are to be intercepted; and

3 (2) not be limited to a specific facility or place.

4 (b) A judge who makes a determination under Subsection (a)
5 is not required to include in the order a description of the nature
6 or location of the communications facility from which or the place
7 where authority to intercept is granted, as required by Section
8 9(b)(2). As an alternative to including that description, the
9 judge may authorize the interception of any communication made by a
10 specified person while the person is present in the geographic
11 jurisdiction of the court.

12 (c) This section does not place any additional legal
13 obligation on a wire or electronic communications provider to
14 identify or locate a person whose communications are to be
15 intercepted.

16 SECTION 7.03. Subdivision (5), Section 1, Article 18.21,
17 Code of Criminal Procedure, is amended to read as follows:

18 (5) "Mobile tracking device" means an electronic or
19 mechanical device that permits tracking the movement of a person,
20 vehicle, container, item, or object. ~~[The term does not include a~~
21 ~~device designed, made, adapted, or capable of:~~

22 ~~[(A) intercepting the content of a~~
23 ~~communication, or~~

24 ~~[(B) functioning as a pen register, ESN reader,~~
25 ~~trap and trace device, or similar equipment.]~~

26 SECTION 7.04. The change in law made by this article to
27 Article 18.20, Code of Criminal Procedure, applies only to an

1 application for an order authorizing the interception of a wire,
2 oral, or electronic communication that is submitted on or after the
3 effective date of this article. An application that was submitted
4 before the effective date of this article is covered by the law in
5 effect on the date the application was submitted, and the former law
6 is continued in effect for that purpose.

7 SECTION 7.05. The change in law made by this article to
8 Article 18.21, Code of Criminal Procedure, applies only to an
9 application for an order authorizing the installation and use of a
10 mobile tracking device that is submitted on or after the effective
11 date of this article. An application that was submitted before the
12 effective date of this article is covered by the law in effect on
13 the date the application was submitted, and the former law is
14 continued in effect for that purpose.

15 ARTICLE 8. EMERGENCY ALERT SYSTEM

16 SECTION 8.01. Subsection (a), Section 418.042, Government
17 Code, is amended to read as follows:

18 (a) The division shall prepare and keep current a
19 comprehensive state emergency management plan. The plan may
20 include:

21 (1) provisions for prevention and minimization of
22 injury and damage caused by disaster;

23 (2) provisions for prompt and effective response to
24 disaster;

25 (3) provisions for emergency relief;

26 (4) provisions for energy emergencies;

27 (5) identification of areas particularly vulnerable

1 to disasters;

2 (6) recommendations for zoning, building
3 restrictions, and other land-use controls, safety measures for
4 securing mobile homes or other nonpermanent or semipermanent
5 structures, and other preventive and preparedness measures
6 designed to eliminate or reduce disasters or their impact;

7 (7) provisions for assistance to local officials in
8 designing local emergency management plans;

9 (8) authorization and procedures for the erection or
10 other construction of temporary works designed to protect against
11 or mitigate danger, damage, or loss from flood, fire, or other
12 disaster;

13 (9) preparation and distribution to the appropriate
14 state and local officials of state catalogs of federal, state, and
15 private assistance programs;

16 (10) organization of manpower and channels of
17 assistance;

18 (11) coordination of federal, state, and local
19 emergency management activities;

20 (12) coordination of the state emergency management
21 plan with the emergency management plans of the federal government;

22 (13) coordination of federal and state energy
23 emergency plans; ~~and~~

24 (14) provisions for education and training of local
25 officials on activation of the Emergency Alert System established
26 under 47 C.F.R. Part 11; and

27 (15) other necessary matters relating to disasters.

ARTICLE 9. TEMPORARY CARDBOARD TAGS ON VEHICLES

SECTION 9.01. Section 503.005, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A dealer who submits information to the database under Section 503.0631 satisfies the requirement for the dealer to notify the department of the sale or transfer of a motor vehicle, trailer, or semitrailer under this section.

(d) The notice required under this section is in addition to the application for vehicle registration and certificate of title a dealer is required to submit under Section 501.0234.

SECTION 9.02. Subsection (d), Section 503.062, Transportation Code, is amended to read as follows:

(d) The department may not issue a dealer temporary cardboard tag or contract for the issuance of a dealer temporary cardboard tag but shall prescribe:

(1) the specifications, form, and color of a dealer temporary cardboard tag; ~~and~~

(2) procedures for a dealer to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag;

(3) procedures to clearly display the vehicle-specific number on the tag; and

(4) the period for which a tag may be used for or by a charitable organization.

SECTION 9.03. Subsection (e), Section 503.0625, Transportation Code, is amended to read as follows:

(e) The department may not issue a converter temporary

1 cardboard tag or contract for the issuance of a converter temporary
2 cardboard tag but shall prescribe:

3 (1) the specifications, form, and color of a converter
4 temporary cardboard tag;

5 (2) procedures for a converter to generate a
6 vehicle-specific number using the database developed under Section
7 503.0626 and assign it to each tag; and

8 (3) procedures to clearly display the
9 vehicle-specific number on the tag.

10 SECTION 9.04. Subchapter C, Chapter 503, Transportation
11 Code, is amended by adding Section 503.0626 to read as follows:

12 Sec. 503.0626. DEALER'S AND CONVERTER'S TEMPORARY TAG
13 DATABASE. (a) The department shall develop and maintain a secure,
14 real-time database of information on vehicles to which dealers and
15 converters have affixed temporary cardboard tags. The database
16 shall be managed by the vehicle titles and registration division of
17 the department.

18 (b) The database must allow law enforcement agencies to use
19 the vehicle-specific number assigned to and displayed on the tag as
20 required by Section 503.062(d) or Section 503.0625(e) to obtain
21 information about the dealer or converter that owns the vehicle.

22 (c) Before a dealer's or converter's temporary cardboard tag
23 may be displayed on a vehicle, the dealer or converter must enter
24 into the database through the Internet information on the vehicle
25 and information about the dealer or converter as prescribed by the
26 department. The department may not deny access to the database to
27 any dealer who holds a general distinguishing number issued under

1 this chapter or who is licensed under Chapter 2301, Occupations
2 Code, or to any converter licensed under Chapter 2301, Occupations
3 Code.

4 (d) The department shall adopt rules and prescribe
5 procedures as necessary to implement this section.

6 SECTION 9.05. Section 503.063, Transportation Code, is
7 amended by amending Subsections (a), (e), and (f) and adding
8 Subsections (g) and (h) to read as follows:

9 (a) Except as provided by this section, a dealer shall ~~may~~
10 issue to a person who buys a ~~an unregistered~~ vehicle one temporary
11 cardboard buyer's tag for the vehicle.

12 (e) The department may not issue a buyer's tag or contract
13 for the issuance of a buyer's tag but shall prescribe:

14 (1) the specifications, color, and form of a buyer's
15 tag; and

16 (2) procedures for a dealer to:

17 (A) generate a vehicle-specific number using the
18 database developed under Section 503.0631 and assign it to each
19 tag;

20 (B) generate a vehicle-specific number using the
21 database developed under Section 503.0631 for future use for when a
22 dealer is unable to access the Internet at the time of sale; and

23 (C) clearly display the vehicle-specific number
24 on the tag.

25 (f) The department shall ensure that a dealer may generate
26 in advance a sufficient amount of vehicle-specific numbers under
27 Subsection (e)(2)(B) in order to continue selling vehicles for a

1 period of up to one week in which a dealer is unable to access the
2 Internet due to an emergency. The department shall establish an
3 expedited procedure to allow affected dealers to apply for
4 additional vehicle-specific numbers so they may remain in business
5 during an emergency.

6 (g) Using the same vehicle-specific number generated under
7 Subsection (e)(2)(A), a [A] dealer may issue an additional
8 temporary cardboard buyer's tag to a person after the expiration of
9 20 working [21] days after the issue of a temporary cardboard
10 buyer's tag, and the person may operate the vehicle for which the
11 tag was issued on the additional temporary cardboard buyer's tag if
12 the dealer has been unable to obtain on behalf of the vehicle's
13 owner the necessary documents to obtain permanent metal license
14 plates because the documents are in the possession of a lienholder
15 who has not complied with the terms of Section 501.115(a) [~~of this~~
16 code]. An additional tag issued under the terms of this subsection
17 is valid for a maximum of 20 working [21] days after the date of
18 issue.

19 (h) For each buyer's temporary cardboard tag other than an
20 additional temporary cardboard buyer's tag under Subsection (g), a
21 dealer shall charge the buyer a registration fee of not more than \$5
22 as prescribed by the department to be sent to the comptroller for
23 deposit to the credit of the state highway fund.

24 SECTION 9.06. Subchapter C, Chapter 503, Transportation
25 Code, is amended by adding Sections 503.0631 and 503.0632 to read as
26 follows:

27 Sec. 503.0631. BUYER'S TEMPORARY TAG DATABASE. (a) The

1 department shall develop and maintain a secure, real-time database
2 of information on persons to whom temporary buyer's tags are issued
3 that may be used by a law enforcement agency in the same manner that
4 the agency uses vehicle registration information. The database
5 shall be managed by the vehicle titles and registration division of
6 the department.

7 (b) The database must allow law enforcement agencies to use
8 a vehicle-specific number assigned to and displayed on the tag as
9 required by Section 503.063(e)(2) to obtain information about the
10 person to whom the tag was issued.

11 (c) Except as provided by Subsection (d), before a buyer's
12 temporary cardboard tag may be displayed on a vehicle, a dealer must
13 enter into the database through the Internet information about the
14 buyer of the vehicle for which the tag was issued as prescribed by
15 the department and generate a vehicle-specific number for the tag
16 as required by Section 503.063(e). The department may not deny
17 access to the database to any dealer who holds a general
18 distinguishing number issued under this chapter or who is licensed
19 under Chapter 2301, Occupations Code.

20 (d) A dealer shall obtain 24-hour Internet access at its
21 place of business, but if the dealer is unable to access the
22 Internet at the time of the sale of a vehicle, the dealer shall
23 complete and sign a form, as prescribed by the department, that
24 states the dealer has Internet access, but was unable to access the
25 Internet at the time of sale. The buyer shall keep the original
26 copy of the form in the vehicle until the vehicle is registered to
27 the buyer. Not later than the next business day after the time of

1 sale, the dealer shall submit the information required under
2 Subsection (c).

3 (e) The department shall adopt rules and prescribe
4 procedures as necessary to implement this section.

5 Sec. 503.0632. NOTICE TO BUYER. (a) Each dealer shall
6 provide a one-page written notice to a buyer that explains:

7 (1) the requirements of the law regarding a buyer's
8 temporary cardboard tag;

9 (2) any criminal penalties relating to a buyer's
10 temporary cardboard tag;

11 (3) any action the buyer is required to take
12 concerning a buyer's temporary cardboard tag; and

13 (4) any other information related to the process of
14 purchasing and registering a vehicle as prescribed by the
15 department.

16 (b) The dealer shall require the buyer to sign a statement
17 indicating the buyer received the notice under this section.

18 (c) The department shall adopt rules to:

19 (1) prescribe the specifications and form of the
20 written notice and statement used under this section; and

21 (2) establish a procedure to determine dealer
22 compliance with this section.

23 SECTION 9.07. The heading to Section 503.067,
24 Transportation Code, is amended to read as follows:

25 Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR
26 SALE OF TEMPORARY CARDBOARD TAGS.

27 SECTION 9.08. Section 503.067, Transportation Code, is

1 amended by amending Subsection (a) and adding Subsections (c) and
2 (d) to read as follows:

3 (a) A person [~~other than a dealer~~] may not produce or
4 reproduce a [~~buyer's or dealer's~~] temporary cardboard tag or an item
5 represented to be a temporary cardboard tag for the purpose of
6 distributing the tag to someone other than a dealer or converter.

7 (c) A person other than a dealer or converter may not
8 purchase a temporary cardboard tag.

9 (d) A person may not sell or distribute a temporary
10 cardboard tag or an item represented to be a temporary cardboard tag
11 unless the person is:

12 (1) a dealer issuing the tag in connection with the
13 sale of a vehicle; or

14 (2) a printer or distributor engaged in the business
15 of selling temporary cardboard tags solely for uses authorized
16 under this chapter.

17 SECTION 9.09. Section 503.094, Transportation Code, is
18 amended by amending Subsection (b) and adding Subsection (d) to
19 read as follows:

20 (b) Except as otherwise provided by this section, an [~~An~~]
21 offense under this section is a misdemeanor punishable by a fine of
22 not less than \$50 or more than \$5,000.

23 (d) An offense involving a violation of:

24 (1) Section 503.067(b) or (c) is a Class C
25 misdemeanor;

26 (2) Section 503.067(d) is a Class A misdemeanor;

27 (3) Section 503.067(a) is a state jail felony; and

1 (4) Section 503.067(b), (c), or (d) is a state jail
2 felony if the person who committed the offense criminally conspired
3 to engage in organized criminal activity.

4 SECTION 9.10. Subsection (a), Section 2301.651,
5 Occupations Code, is amended to read as follows:

6 (a) The board may deny an application for a license, revoke
7 or suspend a license, place on probation a person whose license has
8 been suspended, or reprimand a license holder if the applicant or
9 license holder:

10 (1) is unfit under standards described in this chapter
11 or board rules;

12 (2) makes a material misrepresentation in any
13 application or other information filed under this chapter or board
14 rules;

15 (3) violates this chapter or a board rule or order;

16 (4) violates any law relating to the sale,
17 distribution, financing, or insuring of motor vehicles;

18 (5) fails to maintain the qualifications for a
19 license;

20 (6) wilfully defrauds a purchaser; ~~or~~

21 (7) fails to fulfill a written agreement with a retail
22 purchaser of a motor vehicle; or

23 (8) violates the requirements of Section 503.0631,
24 Transportation Code.

25 SECTION 9.11. (a) As soon as practicable after the
26 effective date of this Act, the Texas Department of Transportation
27 shall adopt rules to implement Sections 503.0626 and 503.0631,

1 Transportation Code, as added by this article.

2 (b) The Texas Department of Transportation may not enforce
3 Section 503.0626 or 503.0631, Transportation Code, as added by this
4 article, until the rules adopted under Subsection (a) of this
5 section take effect and the databases are operational and available
6 to dealers with a general distinguishing number or a converter's
7 license issued under Chapter 2301, Occupations Code.

8 SECTION 9.12. The changes in law made by this article to
9 Sections 503.067 and 503.094, Transportation Code, apply to an
10 offense committed on or after the effective date of this Act. An
11 offense committed before the effective date of this Act is governed
12 by the law in effect when the offense was committed, and the former
13 law is continued in effect for that purpose. For purposes of this
14 section, an offense was committed before the effective date of this
15 Act if any element of the offense was committed before that date.

16 ARTICLE 10. EFFECTIVE DATE

17 SECTION 10.01. Except as otherwise provided by this Act,
18 this Act takes effect September 1, 2007.