

By: Carona

S.B. No. 11

Substitute the following for S.B. No. 11:

By: Escobar

C.S.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:

- 9 (1) a political subdivision in the region;  
10 (2) a political subdivision in another region; or  
11 (3) this state.

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

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

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

27 Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE.

1 (a) When contacted with a request for mutual aid assistance, a  
2 local government entity shall assess local resources to determine  
3 availability of personnel, equipment, and other assistance to  
4 respond to the request.

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

12 Sec. 418.1152. SUPERVISION AND CONTROL. When providing  
13 mutual aid assistance under the system:

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

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

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

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

1 medical director;

2 (5) the designated supervisory personnel of the  
3 responding local government entity shall:

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

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

9 (C) report work progress to the requesting local  
10 government entity; and

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

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

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

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

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



1 employing the person.

2 (b) The local government entity employing the person is  
3 responsible for the payment of wages, salary, pension, and other  
4 compensation and benefits associated with the performance of duties  
5 under the system.

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

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

23 (b) The division may directly request the provision of  
24 mutual aid assistance from any local government entity  
25 participating in the system. If the division requests the  
26 provision of assistance and the local government entity responds,  
27 the state shall reimburse the actual costs of providing assistance,

1 including costs for personnel, operation and maintenance of  
2 equipment, damaged equipment, food, lodging, and transportation,  
3 incurred by the responding local government entity. The state  
4 shall pay reimbursements from available state money. If funds are  
5 made available from the disaster contingency fund, the division  
6 shall make reimbursement from the disaster contingency fund for  
7 eligible expenses to the extent that available state money is  
8 inadequate.

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

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

1 agreement's terms of reimbursement, as provided by Section 418.111.

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

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

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

20 ARTICLE 2. AMATEUR RADIO OPERATORS

21 SECTION 2.01. Subchapter Z, Chapter 661, Government Code,  
22 is amended by adding Section 661.919 to read as follows:

23 Sec. 661.919. AMATEUR RADIO OPERATORS. (a) A state  
24 employee who holds an amateur radio station license issued by the  
25 Federal Communications Commission may be granted leave not to  
26 exceed 10 days each fiscal year to participate in specialized  
27 disaster relief services without a deduction in salary or loss of

1 vacation time, sick leave, earned overtime credit, or state  
2 compensatory time if the leave is taken:

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

5 (2) with the approval of the governor.

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

11 SECTION 2.02. Subsection (c), Section 37.082, Education  
12 Code, is amended to read as follows:

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

20 ARTICLE 3. CERTAIN OPEN MEETINGS PROVISIONS RELATED TO SCHOOLS AND  
21 GOVERNMENTAL BODIES; TEXAS SCHOOL SAFETY CENTER

22 SECTION 3.01. Subsection (b), Section 12.1051, Education  
23 Code, is amended to read as follows:

24 (b) With respect to the operation of an open-enrollment  
25 charter school, any requirement in Chapter 551 or 552, Government  
26 Code, or another law that concerns open meetings or the  
27 availability of information, that applies to a school district, the

1 board of trustees of a school district, or public school students  
2 applies to an open-enrollment charter school, the governing body of  
3 a charter holder, the governing body of an open-enrollment charter  
4 school, or students attending an open-enrollment charter school.

5 SECTION 3.02. Subsection (c), Section 37.108, Education  
6 Code, is amended to read as follows:

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

11 SECTION 3.03. Subsection (a), Section 37.203, Education  
12 Code, is amended to read as follows:

13 (a) The center is advised by a board of directors composed  
14 of:

15 (1) the attorney general, or the attorney general's  
16 designee;

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

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

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

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

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

27 (7) the following members appointed by the governor

1 with the advice and consent of the senate:

2 (A) a juvenile court judge;

3 (B) a member of a school district's board of  
4 trustees;

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

6 (D) an administrator of a public secondary  
7 school;

8 (E) a member of the state parent-teacher  
9 association;

10 (F) a teacher from a public primary or secondary  
11 school;

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

14 (H) a school district police officer or a peace  
15 officer whose primary duty consists of working in a public school;  
16 and

17 (I) two members of the public.

18 SECTION 3.04. Section 37.207, Education Code, is amended to  
19 read as follows:

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

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

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

25 (2) reviewing each district audit, providing the  
26 results of the review to the district, and making recommendations  
27 for improvements based on the audit; and

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

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

6           SECTION 3.05. Subchapter G, Chapter 37, Education Code, is  
7 amended by adding Section 37.213 to read as follows:

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

11           (b) An institution of higher education may use any  
12 appropriate model plan developed by the center under Section  
13 37.205(4).

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

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

19           SECTION 3.06. Section 551.045, Government Code, is amended  
20 by adding Subsection (e) to read as follows:

21           (e) For purposes of Subsection (b)(2), the sudden  
22 relocation of a large number of residents from the area of a  
23 declared disaster to a governmental body's jurisdiction is  
24 considered a reasonably unforeseeable situation for a reasonable  
25 period immediately following the relocation. Notice of an  
26 emergency meeting or supplemental notice of an emergency item added  
27 to the agenda of a meeting to address a situation described by this

1 subsection must be given to members of the news media as provided by  
2 Section 551.047 not later than one hour before the meeting.

3 SECTION 3.07. Section 551.076, Government Code, is amended  
4 to read as follows:

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

7 This chapter does not require a governmental body to conduct an open  
8 meeting to deliberate:

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

11 (2) a security audit; or

12 (3) an emergency operations plan.

13 ARTICLE 4. PROVISIONS RELATED TO TOLL ROADS

14 SECTION 4.01. Subtitle G, Title 6, Transportation Code, is  
15 amended by adding Chapter 371 to read as follows:

16 CHAPTER 371. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL  
17 PROJECT

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

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

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

23 (B) subject to the jurisdiction of the  
24 department.

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



- 1           (A) the department under Chapter 227 or 228;
- 2           (B) a regional tollway authority under Chapter
- 3 366;
- 4           (C) a regional mobility authority under Chapter
- 5 370; or
- 6           (D) a county under Chapter 284.

7           (b) A toll project entity may not require a vehicle  
 8 registered under Section 502.203 to pay a toll for the use of a toll  
 9 project.

10           SECTION 4.02. Subsection (d), Section 228.058,  
 11 Transportation Code, is repealed.

12           ARTICLE 5. OPERATION OF DESIGNATED EMERGENCY VEHICLES

13           SECTION 5.01. Section 418.013, Government Code, is amended  
 14 by adding Subsection (c) to read as follows:

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

23           SECTION 5.02. Subchapter A, Chapter 546, Transportation  
 24 Code, is amended by adding Section 546.006 to read as follows:

25           Sec. 546.006. DESIGNATED EMERGENCY VEHICLE DURING DECLARED  
 26 DISASTERS. (a) From recommendations made under Section  
 27 418.013(c), Government Code, the department shall designate which

1 vehicles may be operated by which designated organizations as  
2 emergency vehicles during declared disasters.

3 (b) A vehicle designated under Subsection (a) may be  
4 operated by a designated organization as if the vehicle were an  
5 authorized emergency vehicle under this subtitle if:

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

8 (2) the department requests assistance from the  
9 designated organization; and

10 (3) the vehicle is operated by the designated  
11 organization or a member of the designated organization in response  
12 to the state of disaster.

13 (c) The department shall adopt rules as necessary to  
14 implement this section.

15 ARTICLE 6. INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC  
16 COMMUNICATIONS

17 SECTION 6.01. Subdivision (1), Section 1, Article 18.20,  
18 Code of Criminal Procedure, is amended to read as follows:

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

1 SECTION 6.02. Article 18.20, Code of Criminal Procedure, is  
2 amended by amending Section 4 and adding Section 9A to read as  
3 follows:

4 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED.  
5 A judge of competent jurisdiction may issue an order authorizing  
6 interception of wire, oral, or electronic communications only if  
7 the prosecutor applying for the order shows probable cause to  
8 believe that the interception will provide evidence of the  
9 commission of:

10 (1) a felony under Section 19.02, 19.03, or 43.26,  
11 Penal Code;

12 (2) a felony under:

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

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

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

17 (3) an offense under Chapter 20, 20A, or 34, Penal  
18 Code; or

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

21 Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED  
22 PERSON. (a) Notwithstanding Section 8(a)(2)(B), an application  
23 for an order authorizing the interception of a wire, oral, or  
24 electronic communication is not required to contain a particular  
25 description of the nature and location of the facilities from which  
26 or the place where the communication is to be intercepted if a judge  
27 of competent jurisdiction determines the person whose

1 communications are to be intercepted is likely to circumvent the  
2 order by changing communication devices repeatedly or there are  
3 exigent circumstances requiring that the order:

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

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

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

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

19 SECTION 6.03. Subdivision (5), Section 1, Article 18.21,  
20 Code of Criminal Procedure, is amended to read as follows:

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

25 ~~[(A) intercepting the content of a~~  
26 ~~communication, or~~

27 ~~[(B) functioning as a pen register, ESN reader,~~

1 ~~trap and trace device, or similar equipment.]~~

2 SECTION 6.04. The change in law made by this article to  
3 Article 18.20, Code of Criminal Procedure, applies only to an  
4 application for an order authorizing the interception of a wire,  
5 oral, or electronic communication that is submitted on or after the  
6 effective date of this article. An application that was submitted  
7 before the effective date of this article is covered by the law in  
8 effect on the date the application was submitted, and the former law  
9 is continued in effect for that purpose.

10 SECTION 6.05. The change in law made by this article to  
11 Article 18.21, Code of Criminal Procedure, applies only to an  
12 application for an order authorizing the installation and use of a  
13 mobile tracking device that is submitted on or after the effective  
14 date of this article. An application that was submitted before the  
15 effective date of this article is covered by the law in effect on  
16 the date the application was submitted, and the former law is  
17 continued in effect for that purpose.

18 ARTICLE 7. EMERGENCY ALERT SYSTEM

19 SECTION 7.01. Subsection (a), Section 418.042, Government  
20 Code, is amended to read as follows:

21 (a) The division shall prepare and keep current a  
22 comprehensive state emergency management plan. The plan may  
23 include:

24 (1) provisions for prevention and minimization of  
25 injury and damage caused by disaster;

26 (2) provisions for prompt and effective response to  
27 disaster;

- 1 (3) provisions for emergency relief;
- 2 (4) provisions for energy emergencies;
- 3 (5) identification of areas particularly vulnerable  
4 to disasters;
- 5 (6) recommendations for zoning, building  
6 restrictions, and other land-use controls, safety measures for  
7 securing mobile homes or other nonpermanent or semipermanent  
8 structures, and other preventive and preparedness measures  
9 designed to eliminate or reduce disasters or their impact;
- 10 (7) provisions for assistance to local officials in  
11 designing local emergency management plans;
- 12 (8) authorization and procedures for the erection or  
13 other construction of temporary works designed to protect against  
14 or mitigate danger, damage, or loss from flood, fire, or other  
15 disaster;
- 16 (9) preparation and distribution to the appropriate  
17 state and local officials of state catalogs of federal, state, and  
18 private assistance programs;
- 19 (10) organization of manpower and channels of  
20 assistance;
- 21 (11) coordination of federal, state, and local  
22 emergency management activities;
- 23 (12) coordination of the state emergency management  
24 plan with the emergency management plans of the federal government;
- 25 (13) coordination of federal and state energy  
26 emergency plans; ~~and~~
- 27 (14) provisions for education and training of local

1 officials on activation of the Emergency Alert System established  
2 under 47 C.F.R. Part 11; and

3 (15) other necessary matters relating to disasters.

4 ARTICLE 8. TEMPORARY CARDBOARD TAGS ON VEHICLES

5 SECTION 8.01. Section 503.005, Transportation Code, is  
6 amended by adding Subsections (c) and (d) to read as follows:

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

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

14 SECTION 8.02. Subsection (d), Section 503.062,  
15 Transportation Code, is amended to read as follows:

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

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

21 (2) procedures for a dealer to generate a  
22 vehicle-specific number using the database developed under Section  
23 503.0626 and assign it to each tag;

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

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

1 SECTION 8.03. Subsection (e), Section 503.0625,  
2 Transportation Code, is amended to read as follows:

3 (e) The department may not issue a converter temporary  
4 cardboard tag or contract for the issuance of a converter temporary  
5 cardboard tag but shall prescribe:

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

8 (2) procedures for a converter to generate a  
9 vehicle-specific number using the database developed under Section  
10 503.0626 and assign it to each tag; and

11 (3) procedures to clearly display the  
12 vehicle-specific number on the tag.

13 SECTION 8.04. Subchapter C, Chapter 503, Transportation  
14 Code, is amended by adding Section 503.0626 to read as follows:

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

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

25 (c) Before a dealer's or converter's temporary cardboard tag  
26 may be displayed on a vehicle, the dealer or converter must enter  
27 into the database through the Internet information on the vehicle



1 and information about the dealer or converter as prescribed by the  
2 department. The department may not deny access to the database to  
3 any dealer who holds a general distinguishing number issued under  
4 this chapter or who is licensed under Chapter 2301, Occupations  
5 Code, or to any converter licensed under Chapter 2301, Occupations  
6 Code.

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

9 SECTION 8.05. Section 503.063, Transportation Code, is  
10 amended by amending Subsections (a), (e), and (f) and adding  
11 Subsections (g) and (h) to read as follows:

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

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

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

19 (2) procedures for a dealer to:

20 (A) generate a vehicle-specific number using the  
21 database developed under Section 503.0631 and assign it to each  
22 tag;

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

26 (C) clearly display the vehicle-specific number  
27 on the tag.

1           (f) The department shall ensure that a dealer may generate  
2 in advance a sufficient amount of vehicle-specific numbers under  
3 Subsection (e)(2)(B) in order to continue selling vehicles for a  
4 period of up to one week in which a dealer is unable to access the  
5 Internet due to an emergency. The department shall establish an  
6 expedited procedure to allow affected dealers to apply for  
7 additional vehicle-specific numbers so they may remain in business  
8 during an emergency.

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

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

27           SECTION 8.06. Subchapter C, Chapter 503, Transportation

1 Code, is amended by adding Sections 503.0631 and 503.0632 to read as  
2 follows:

3 Sec. 503.0631. BUYER'S TEMPORARY TAG DATABASE. (a) The  
4 department shall develop and maintain a secure, real-time database  
5 of information on persons to whom temporary buyer's tags are issued  
6 that may be used by a law enforcement agency in the same manner that  
7 the agency uses vehicle registration information. The database  
8 shall be managed by the vehicle titles and registration division of  
9 the department.

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

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

23 (d) A dealer shall obtain 24-hour Internet access at its  
24 place of business, but if the dealer is unable to access the  
25 Internet at the time of the sale of a vehicle, the dealer shall  
26 complete and sign a form, as prescribed by the department, that  
27 states the dealer has Internet access, but was unable to access the

1 Internet at the time of sale. The buyer shall keep the original  
2 copy of the form in the vehicle until the vehicle is registered to  
3 the buyer. Not later than the next business day after the time of  
4 sale, the dealer shall submit the information required under  
5 Subsection (c).

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

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

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

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

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

16 (4) any other information related to the process of  
17 purchasing and registering a vehicle as prescribed by the  
18 department.

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

21 (c) The department shall adopt rules to:

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

24 (2) establish a procedure to determine dealer  
25 compliance with this section.

26 SECTION 8.07. The heading to Section 503.067,  
27 Transportation Code, is amended to read as follows:

1           Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR  
2 SALE OF TEMPORARY CARDBOARD TAGS.

3           SECTION 8.08. Section 503.067, Transportation Code, is  
4 amended by amending Subsection (a) and adding Subsections (c) and  
5 (d) to read as follows:

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

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

12           (d) A person may not sell or distribute a temporary  
13 cardboard tag or an item represented to be a temporary cardboard tag  
14 unless the person is:

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

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

20           SECTION 8.09. Section 503.094, Transportation Code, is  
21 amended by amending Subsection (b) and adding Subsection (d) to  
22 read as follows:

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

26           (d) An offense involving a violation of:

27                   (1) Section 503.067(b) or (c) is a Class C

1 misdemeanor;

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

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

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

7 SECTION 8.10. Subsection (a), Section 2301.651,  
8 Occupations Code, is amended to read as follows:

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

13 (1) is unfit under standards described in this chapter  
14 or board rules;

15 (2) makes a material misrepresentation in any  
16 application or other information filed under this chapter or board  
17 rules;

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

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

21 (5) fails to maintain the qualifications for a  
22 license;

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

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

26 (8) violates the requirements of Section 503.0631,  
27 Transportation Code.

1           SECTION 8.11. (a) As soon as practicable after the  
2 effective date of this Act, the Texas Department of Transportation  
3 shall adopt rules to implement Sections 503.0626 and 503.0631,  
4 Transportation Code, as added by this article.

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

11           SECTION 8.12. The changes in law made by this article to  
12 Sections 503.067 and 503.094, Transportation Code, apply to an  
13 offense committed on or after the effective date of this Act. An  
14 offense committed before the effective date of this Act is governed  
15 by the law in effect when the offense was committed, and the former  
16 law is continued in effect for that purpose. For purposes of this  
17 section, an offense was committed before the effective date of this  
18 Act if any element of the offense was committed before that date.

19           ARTICLE 9. EMINENT DOMAIN AUTHORITY OF COMMON CARRIERS

20           SECTION 9.01. Section 2206.001, Government Code, is amended  
21 by amending Subsection (c) and adding Subsection (f) to read as  
22 follows:

23           (c) This section does not affect the authority of an entity  
24 authorized by law to take private property through the use of  
25 eminent domain for:

- 26           (1) transportation projects, including, but not  
27 limited to, railroads, airports, or public roads or highways;

1 (2) entities authorized under Section 59, Article XVI,  
2 Texas Constitution, including:

3 (A) port authorities;

4 (B) navigation districts; and

5 (C) any other conservation or reclamation  
6 districts that act as ports;

7 (3) water supply, wastewater, flood control, and  
8 drainage projects;

9 (4) public buildings, hospitals, and parks;

10 (5) the provision of utility services;

11 (6) a sports and community venue project approved by  
12 voters at an election held on or before December 1, 2005, under  
13 Chapter 334 or 335, Local Government Code;

14 (7) the operations of:

15 (A) a common carrier [~~subject to Chapter 111,~~  
16 ~~Natural Resources Code, and Section B(3)(b), Article 2.01, Texas~~  
17 ~~Business Corporation Act~~]; or

18 (B) an energy transporter, as that term is  
19 defined by Section 186.051, Utilities Code;

20 (8) a purpose authorized by Chapter 181, Utilities  
21 Code;

22 (9) underground storage operations subject to Chapter  
23 91, Natural Resources Code;

24 (10) a waste disposal project; or

25 (11) a library, museum, or related facility and any  
26 infrastructure related to the facility.

27 (f) An exercise of eminent domain authority by a common



1 carrier under Subsection (c)(7) is not invalid solely because the  
2 common carrier does not operate as a corporation under the laws of  
3 this state.

4 SECTION 9.02. The change in law made by this article applies  
5 to an exercise of eminent domain authority by a common carrier for  
6 which a condemnation petition is filed before, on, or after the  
7 effective date of this article.

8 SECTION 9.03. This article takes effect immediately if this  
9 Act receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this article takes effect September 1, 2007.

13 ARTICLE 10. EFFECTIVE DATE

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