

SENATE AMENDMENTS

2nd Printing

By: Berman

H.B. No. 1987

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offense of possessing another person's official
3 ballot or official carrier envelope.

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

5 SECTION 1. Section 86.006(f), Election Code, is amended to
6 read as follows:

7 (f) A person commits an offense if the person knowingly
8 possesses an official ballot or official carrier envelope provided
9 under this code to another. Unless the person possessed the ballot
10 or carrier envelope with intent to defraud the voter or the election
11 authority, it is an exception to the application of [~~affirmative~~
12 ~~defense to prosecution under~~] this subsection that the person, on
13 the date of the offense, was:

14 (1) related to the voter within the second degree by
15 affinity or the third degree by consanguinity, as determined under
16 Subchapter B, Chapter 573, Government Code;

17 (2) registered to vote at the same address as the
18 voter;

19 (3) an early voting clerk or a deputy early voting
20 clerk;

21 (4) a person who possesses the carrier envelope in
22 order to deposit the envelope in the mail or with a common or
23 contract carrier and who provides the information required by
24 Section 86.0051(b) in accordance with that section;

1 (5) an employee of the United States Postal Service
2 working in the normal course of the employee's authorized duties;
3 or

4 (6) a common or contract carrier working in the normal
5 course of the carrier's authorized duties if the official ballot is
6 sealed in an official carrier envelope that is accompanied by an
7 individual delivery receipt for that particular carrier envelope.

8 SECTION 2. The change in law made by this Act applies only
9 to an offense committed on or after September 1, 2007. An offense
10 committed before September 1, 2007, is covered by the law in effect
11 when the offense was committed, and the former law is continued in
12 effect for that purpose. For purposes of this section, an offense
13 was committed before September 1, 2007, if any element of the
14 offense occurred before that date.

15 SECTION 3. This Act takes effect September 1, 2007.

ADOPTED

MAY 10 2007

Leroy Spaw
Secretary of the Senate

By: *Duncan*

H.B. No. 1987

Substitute the following for ___B. No. _____:

By: *Duncan*

C.S. ___B. No. _____

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offense of possessing another person's official
3 ballot or official carrier envelope.

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

5 SECTION 1. Section 86.006, Election Code, is amended by
6 amending Subsection (f) and adding Subsection (i) to read as
7 follows:

8 (f) A person commits an offense if the person knowingly
9 possesses an official ballot or official carrier envelope provided
10 under this code to another. Unless the person possessed the ballot
11 or carrier envelope with intent to defraud the voter or the election
12 authority, [~~it is an affirmative defense to prosecution under~~] this
13 subsection does not apply to a [~~that the~~] person who, on the date of
14 the offense, was:

15 (1) related to the voter within the second degree by
16 affinity or the third degree by consanguinity, as determined under
17 Subchapter B, Chapter 573, Government Code;

18 (2) registered to vote at the same address as the
19 voter;

20 (3) an early voting clerk or a deputy early voting
21 clerk;

22 (4) a person who possesses the carrier envelope in
23 order to deposit the envelope in the mail or with a common or
24 contract carrier and who provides the information required by

1 Section 86.0051(b) in accordance with that section;

2 (5) an employee of the United States Postal Service
3 working in the normal course of the employee's authorized duties;
4 or

5 (6) a common or contract carrier working in the normal
6 course of the carrier's authorized duties if the official ballot is
7 sealed in an official carrier envelope that is accompanied by an
8 individual delivery receipt for that particular carrier envelope.

9 (i) In the prosecution of an offense under Subsection (f):

10 (1) the prosecuting attorney is not required to negate
11 the applicability of the provisions of Subsections (f)(1)-(6) in
12 the accusation charging commission of an offense;

13 (2) the issue of the applicability of a provision of
14 Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to
15 the jury unless evidence of that provision is admitted; and

16 (3) if the issue of the applicability of a provision of
17 Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the
18 jury, the court shall charge that a reasonable doubt on the issue
19 requires that the defendant be acquitted.

20 SECTION 2. The change in law made by this Act applies only
21 to an offense committed on or after September 1, 2007. An offense
22 committed before September 1, 2007, is covered by the law in effect
23 when the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this section, an offense
25 was committed before September 1, 2007, if any element of the
26 offense occurred before that date.

27 SECTION 3. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 30, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1987 by Berman (Relating to the offense of possessing another person's official ballot or official carrier envelope.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, SD, MN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 17, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1987 by Berman (Relating to the offense of possessing another person's official ballot or official carrier envelope.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, MN, SD

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 20, 2007

TO: Honorable Leo Berman, Chair, House Committee on Elections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1987 by Berman (Relating to the offense of possessing another person's official ballot or official carrier envelope.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, MN, SD