

**House Bill 1987**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code;
- (2) registered to vote at the same address as the voter;
- (3) an early voting clerk or a deputy early voting clerk;
- (4) a person who possesses the carrier envelope in order to deposit the envelope in the mail or with a common or contract carrier and who provides the information required by Section 86.0051(b) in accordance with that section;
- (5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; or
- (6) a common or contract carrier working in the normal course of the carrier's authorized duties if the official ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

SENATE VERSION

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

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

- (1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code;
- (2) registered to vote at the same address as the voter;
- (3) an early voting clerk or a deputy early voting clerk;
- (4) a person who possesses the carrier envelope in order to deposit the envelope in the mail or with a common or contract carrier and who provides the information required by Section 86.0051(b) in accordance with that section;
- (5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; or
- (6) a common or contract carrier working in the normal course of the carrier's authorized duties if the official ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

CONFERENCE

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(i) In the prosecution of an offense under Subsection (f):  
(1) the prosecuting attorney is not required to negate the applicability of the provisions of Subsections (f)(1)-(6) in the accusation charging commission of an offense;  
(2) the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to the jury unless evidence of that provision is admitted;  
and  
(3) if the issue of the applicability of a provision of Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the jury, the court shall charge that a reasonable doubt on the issue requires that the defendant be acquitted.

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

Same as House version.

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

Same as House version.