

By: Bohac

H.B. No. 3342

A BILL TO BE ENTITLED

AN ACT

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

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

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

(d) An offense under this section is a state jail felony if:

(1) either:

(A) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; or

(B) the person has been previously convicted two or more times of an offense under this section; and

(2) the amount of the pecuniary loss to real property or to tangible personal property is any amount less than \$20,000.

SECTION 2. Section 71.02(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping,

1 kidnapping, aggravated assault, aggravated sexual assault, sexual  
2 assault, forgery, deadly conduct, assault punishable as a Class A  
3 misdemeanor, burglary of a motor vehicle, or unauthorized use of a  
4 motor vehicle;

5 (2) any gambling offense punishable as a Class A  
6 misdemeanor;

7 (3) promotion of prostitution, aggravated promotion  
8 of prostitution, or compelling prostitution;

9 (4) unlawful manufacture, transportation, repair, or  
10 sale of firearms or prohibited weapons;

11 (5) unlawful manufacture, delivery, dispensation, or  
12 distribution of a controlled substance or dangerous drug, or  
13 unlawful possession of a controlled substance or dangerous drug  
14 through forgery, fraud, misrepresentation, or deception;

15 (6) any unlawful wholesale promotion or possession of  
16 any obscene material or obscene device with the intent to wholesale  
17 promote the same;

18 (7) any offense under Subchapter B, Chapter 43,  
19 depicting or involving conduct by or directed toward a child  
20 younger than 18 years of age;

21 (8) any felony offense under Chapter 32;

22 (9) any offense under Chapter 36;

23 (10) any offense under Chapter 34 or 35;

24 (11) any offense under Section 37.11(a);

25 (12) any offense under Chapter 20A; [~~or~~]

26 (13) any offense under Section 37.10; or

27 (14) any offense under Section 28.08.

1 SECTION 3. The heading to Section 521.320, Transportation  
2 Code, is amended to read as follows:

3 Sec. 521.320. SUSPENSION FOR CONVICTION INVOLVING GRAFFITI  
4 [~~CERTAIN CRIMINAL MISCHIEF~~]; LICENSE DENIAL.

5 SECTION 4. Sections 521.320(a) and (b), Transportation  
6 Code, are amended to read as follows:

7 (a) A court shall [~~may~~] order the department to suspend a  
8 person's driver's license on conviction of an offense under Section  
9 28.08, Penal Code.

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

14 SECTION 5. The change in law made by this Act applies only  
15 to an offense committed on or after the effective date of this Act.  
16 An offense committed before the effective date of this Act is  
17 covered by the law in effect when the offense was committed, and the  
18 former law is continued in effect for that purpose. For purposes of  
19 this section, an offense was committed before the effective date of  
20 this Act if any element of the offense was committed before that  
21 date.

22 SECTION 6. This Act takes effect September 1, 2009.