

By: Carona

S.B. No. 367

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of and punishment for certain criminal
3 offenses involving the use of a false or fictitious identity or
4 identifying documents.

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

6 SECTION 1. Section 37.10, Penal Code, is amended by adding
7 Subsection (j) to read as follows:

8 (j) It is not a defense to prosecution under Subsection
9 (a)(2) that the record, document, or thing made, presented, or used
10 displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or
11 another substantially similar statement intended to alert a person
12 to the falsity of the record, document, or thing, unless the record,
13 document, or thing displays the statement diagonally printed
14 clearly and indelibly on both the front and back of the record,
15 document, or thing in solid red capital letters at least one-fourth
16 inch in height.

17 SECTION 2. Section 38.02, Penal Code, is amended by
18 amending Subsection (c) and adding Subsection (d-1) to read as
19 follows:

20 (c) Except as provided by Subsections (d) and (d-1) [~~(e)~~],
21 an offense under this section is:

22 (1) a Class C misdemeanor if the offense is committed
23 under Subsection (a); or

24 (2) a Class B misdemeanor if the offense is committed

1 under Subsection (b).

2 (d-1) An offense under Subsection (b) is a state jail felony
3 if it is shown on the trial of the offense that the actor:

4 (1) was at the time of the offense a member of a
5 criminal street gang, as defined by Section 71.01; and

6 (2) committed the offense with the intent to:

7 (A) further the criminal activities of the
8 criminal street gang; or

9 (B) avoid detection as a member of a criminal
10 street gang.

11 SECTION 3. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 covered by the law in effect when the offense was committed, and the
15 former law is continued in effect for that purpose. For purposes of
16 this section, an offense was committed before the effective date of
17 this Act if any element of the offense occurred before that date.

18 SECTION 4. This Act takes effect September 1, 2009.