

By: Williams, et al.  
(Miller of Erath)

S.B. No. 9

Substitute the following for S.B. No. 9:

By: Flynn

C.S.S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to homeland security; providing penalties.

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

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.049 to read as follows:

Sec. 12.049. EVALUATION OF RURAL LAND SECURITY. (a) The department, in conjunction with private landowners and other appropriate entities, shall assess the impact of illegal activity along the Texas-Mexico border on:

(1) rural landowners; and

(2) the agriculture industry.

(b) The department shall work in conjunction with other appropriate entities to develop recommendations to enhance border security and address issues identified under this section.

SECTION 2. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.252 to read as follows:

Art. 2.252. VERIFICATION OF IMMIGRATION STATUS OF PERSON CHARGED WITH COMMITTING OFFENSE. (a) A law enforcement agency that has custody of a person who has been arrested and transported to a place of detention shall verify the immigration status of the person by use of the federal Secure Communities program operated by United States Immigration and Customs Enforcement or a successor program.

(b) A law enforcement agency is not required to conduct an

1 immigration status verification under Subsection (a) of a person  
2 who is transferred to the custody of the agency by another law  
3 enforcement agency if the transferring agency, before transferring  
4 custody of the person, conducted an immigration status verification  
5 under Subsection (a).

6 SECTION 3. Subsection (a), Section 4, Article 37.07, Code  
7 of Criminal Procedure, is amended to read as follows:

8 (a) In the penalty phase of the trial of a felony case in  
9 which the punishment is to be assessed by the jury rather than the  
10 court, if the offense of which the jury has found the defendant  
11 guilty is an offense under Section 71.02 or 71.023, Penal Code, or  
12 an offense listed in Section 3g(a)(1), Article 42.12, [~~of this~~  
13 ~~code~~] or if the judgment contains an affirmative finding under  
14 Section 3g(a)(2), Article 42.12, [~~of this code,~~] unless the  
15 defendant has been convicted of an offense under Section 21.02,  
16 Penal Code, an offense under Section 22.021, Penal Code, that is  
17 punishable under Subsection (f) of that section, or a capital  
18 felony, the court shall charge the jury in writing as follows:

19 "Under the law applicable in this case, the defendant, if  
20 sentenced to a term of imprisonment, may earn time off the period of  
21 incarceration imposed through the award of good conduct time.  
22 Prison authorities may award good conduct time to a prisoner who  
23 exhibits good behavior, diligence in carrying out prison work  
24 assignments, and attempts at rehabilitation. If a prisoner engages  
25 in misconduct, prison authorities may also take away all or part of  
26 any good conduct time earned by the prisoner.

27 "It is also possible that the length of time for which the

1 defendant will be imprisoned might be reduced by the award of  
2 parole.

3 "Under the law applicable in this case, if the defendant is  
4 sentenced to a term of imprisonment, the defendant [~~he~~] will not  
5 become eligible for parole until the actual time served equals  
6 one-half of the sentence imposed or 30 years, whichever is less,  
7 without consideration of any good conduct time the defendant [~~he~~]  
8 may earn. If the defendant is sentenced to a term of less than four  
9 years, the defendant [~~he~~] must serve at least two years before the  
10 defendant [~~he~~] is eligible for parole. Eligibility for parole does  
11 not guarantee that parole will be granted.

12 "It cannot accurately be predicted how the parole law and  
13 good conduct time might be applied to this defendant if [~~he is~~]  
14 sentenced to a term of imprisonment, because the application of  
15 these laws will depend on decisions made by prison and parole  
16 authorities.

17 "You may consider the existence of the parole law and good  
18 conduct time. However, you are not to consider the extent to which  
19 good conduct time may be awarded to or forfeited by this particular  
20 defendant. You are not to consider the manner in which the parole  
21 law may be applied to this particular defendant."

22 SECTION 4. Article 59.06, Code of Criminal Procedure, is  
23 amended by adding Subsections (c-2) and (c-3) to read as follows:

24 (c-2) Notwithstanding Subsection (a), with respect to  
25 forfeited property seized in connection with a violation of Chapter  
26 481, Health and Safety Code (Texas Controlled Substances Act), by a  
27 peace officer employed by the Department of Public Safety, and

awarded to the state by entry of a default judgment, the attorney representing the state shall enter into a local agreement with the department that allows the attorney representing the state either to:

(1) transfer forfeited property to the department to maintain, repair, use, and operate for official purposes in the manner provided by Subsection (b); or

(2) allocate the property or the proceeds from the sale of forfeited property described by Subsection (c) in the following proportions:

(A) 40 percent to a special fund in the department to be used solely for law enforcement purposes;

(B) 30 percent to a special fund in the county treasury for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposes of the attorney's office; and

(C) 30 percent to the general revenue fund.

(c-3) Notwithstanding Subsections (a) and (c-2), with respect to forfeited property seized in connection with a violation of Chapter 481, Health and Safety Code (Texas Controlled Substances Act), by the Department of Public Safety concurrently with any other law enforcement agency, in a proceeding under Article 59.05 in which a default judgment is rendered in favor of the state, the attorney representing the state may allocate property or proceeds in accordance with a memorandum of understanding between the law enforcement agencies and the attorney representing the state.

SECTION 5. Subchapter A, Chapter 411, Government Code, is

1 amended by adding Section 411.0094 to read as follows:

2 Sec. 411.0094. AUTOMATIC LICENSE PLATE READER PILOT  
3 PROGRAM. (a) In this section, "automatic license plate reader"  
4 means a system that reads and records license plate numbers taken  
5 from digital photographs.

6 (b) The department shall establish a pilot program in which  
7 automatic license plate readers may be installed in law enforcement  
8 motor vehicles used by the department for law enforcement.

9 (c) The program must include a request for proposal process  
10 to select a contractor for the installation of automatic license  
11 plate readers.

12 (d) The department shall adopt rules as necessary to  
13 implement the program.

14 (e) An automatic license plate reader installed under this  
15 section:

16 (1) may be used only to record information necessary  
17 to identify a motor vehicle; and

18 (2) may not be used to record an image of a person in a  
19 motor vehicle.

20 (f) The images and any related data produced from an  
21 automatic license plate identification camera system may be queried  
22 or disseminated only for a law enforcement purpose.

23 (g) All data produced from an automatic license plate reader  
24 shall be destroyed within one year of collection unless the data is  
25 evidence in a criminal investigation or prosecution.

26 (h) Any agreement or memorandum of understanding concerning  
27 data-sharing related to an automatic license plate identification

1 camera system between law enforcement entities collecting,  
2 sharing, or gaining access to data under this section is subject to  
3 the provisions of Chapter 552.

4 (i) Not later than December 1, 2012, the department shall  
5 file a report with the committee in each house of the legislature  
6 having primary jurisdiction over homeland security matters. The  
7 report must include:

8 (1) information regarding the use of automatic license  
9 plate readers by the department; and

10 (2) any other information that would assist the  
11 legislature in evaluating the effectiveness of the use of automatic  
12 license plate readers by the department.

13 (j) This section expires September 1, 2013.

14 SECTION 6. The heading to Section 411.0095, Government  
15 Code, is amended to read as follows:

16 Sec. 411.0095. VEHICLE ~~[THEFT]~~ CHECKPOINTS NEAR  
17 TEXAS-MEXICO ~~[AT]~~ BORDER ~~[CROSSING]~~.

18 SECTION 7. Subsections (a) through (d), Section 411.0095,  
19 Government Code, are amended to read as follows:

20 (a) The department may establish ~~[a program for the purpose~~  
21 ~~of establishing]~~ border ~~[crossing]~~ checkpoints to prevent the  
22 unlawful possession or unlawful and imminent movement or transfer  
23 from this state to Mexico of:

24 (1) firearms, in violation of Section 46.14, Penal  
25 Code;

26 (2) controlled substances, in violation of Chapter  
27 481, Health and Safety Code;

1           (3) currency, in violation of Section 34.02, Penal  
2 Code; or

3           (4) stolen vehicles, farm tractors or implements,  
4 construction equipment, aircraft, or watercraft, in violation of  
5 Section 31.03, Penal Code ~~[from entering Mexico]~~.

6           (b) A checkpoint may be established under Subsection (a) if  
7 the checkpoint is:

8           (1) located within 250 yards of a federally designated  
9 crossing facility located at or near the actual boundary between  
10 this state and Mexico;

11           (2) located on a public highway or street leading  
12 directly to an international border crossing;

13           (3) designed to stop only traffic bound for Mexico;  
14 and

15           (4) operated in such a manner as to prevent firearms,  
16 controlled substances, currency, [stop only] vehicles, tractors or  
17 implements, equipment, aircraft, or watercraft that [for which] law  
18 enforcement authorities have probable cause to believe are  
19 unlawfully possessed or being unlawfully and imminently  
20 transferred or moved from this state to ~~[is stolen and bound for]~~  
21 Mexico from being possessed or transferred or moved to Mexico.

22           (c) The department may establish ~~[the]~~ border checkpoints  
23 ~~[crossing checkpoint program]~~ in conjunction with federal and local  
24 law enforcement authorities. The department and federal and local  
25 law enforcement authorities may share the cost of staffing the  
26 checkpoints.

27           (d) The department shall establish procedures governing the

1 encounter between the driver and the peace officers operating the  
2 checkpoint that ensure that any intrusion on the driver is  
3 minimized and that the inquiries made are reasonably related to the  
4 purpose of the checkpoint. ~~[A peace officer at the checkpoint may  
5 not direct a driver or a passenger in a motor vehicle to leave the  
6 vehicle or move the vehicle off the roadway unless the officer has  
7 reasonable suspicion or probable cause to believe that the person  
8 committed or is committing an offense. However, a peace officer may  
9 require that each motor vehicle passing through the checkpoint be  
10 diverted to a location immediately adjacent to the roadway, if  
11 desirable, to ensure safety.]~~

12 SECTION 8. Effective September 1, 2015, Section 411.0095,  
13 Government Code, is reenacted to read as follows:

14 Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER  
15 CROSSING. (a) The department may establish a program for the  
16 purpose of establishing border crossing checkpoints to prevent  
17 stolen vehicles, farm tractors or implements, construction  
18 equipment, aircraft, or watercraft from entering Mexico.

19 (b) A checkpoint may be established under Subsection (a) if  
20 the checkpoint is:

21 (1) located within 250 yards of a federally designated  
22 crossing facility located at or near the actual boundary between  
23 this state and Mexico;

24 (2) located on a public highway or street leading  
25 directly to an international border crossing;

26 (3) designed to stop only traffic bound for Mexico;

27 and



1           (4) operated in such a manner as to stop only vehicles,  
2 tractors or implements, equipment, aircraft, or watercraft for  
3 which law enforcement authorities have probable cause to believe is  
4 stolen and bound for Mexico.

5           (c) The department may establish the border crossing  
6 checkpoint program in conjunction with local law enforcement  
7 authorities. The department and local law enforcement authorities  
8 may share the cost of staffing the checkpoints.

9           (d) The department shall establish procedures governing the  
10 encounter between the driver and the peace officers operating the  
11 checkpoint that ensure that any intrusion on the driver is  
12 minimized and that the inquiries made are reasonably related to the  
13 purpose of the checkpoint. A peace officer at the checkpoint may  
14 not direct a driver or a passenger in a motor vehicle to leave the  
15 vehicle or move the vehicle off the roadway unless the officer has  
16 reasonable suspicion or probable cause to believe that the person  
17 committed or is committing an offense. However, a peace officer may  
18 require that each motor vehicle passing through the checkpoint be  
19 diverted to a location immediately adjacent to the roadway, if  
20 desirable, to ensure safety.

21           (e) In this section:

22               (1) "Motor vehicle" and "vehicle" have the meanings  
23 assigned to those terms by Section 541.201, Transportation Code.

24               (2) "Watercraft" has the meaning assigned by Section  
25 49.01, Penal Code.

26           SECTION 9. Section 411.023, Government Code, is amended by  
27 amending Subsection (b) and adding Subsection (g) to read as

1 follows:

2 (b) A special ranger is subject to the orders of the  
3 commission and the governor for special duty to the same extent as  
4 other law enforcement officers provided for by this chapter, except  
5 that a special ranger may not enforce a law [~~except one designed to~~  
6 ~~protect life and property and may not enforce a law~~] regulating the  
7 use of a state highway by a motor vehicle. A special ranger is not  
8 connected with a ranger company or uniformed unit of the  
9 department.

10 (g) The director may call special rangers into service to:

- 11 (1) preserve the peace and protect life and property;  
12 (2) conduct background investigations;  
13 (3) monitor sex offenders;  
14 (4) serve as part of two-officer units on patrol in  
15 high threat areas; and  
16 (5) provide assistance to the department during  
17 disasters.

18 SECTION 10. Section 411.024, Government Code, is amended by  
19 amending Subsection (b) and adding Subsection (g) to read as  
20 follows:

21 (b) A special Texas Ranger is subject to the orders of the  
22 commission and the governor for special duty to the same extent as  
23 other law enforcement officers provided for by this chapter, except  
24 that a special Texas Ranger may not enforce a law [~~except one~~  
25 ~~designed to protect life and property and may not enforce a law~~]  
26 regulating the use of a state highway by a motor vehicle. A special  
27 Texas Ranger is not connected with a ranger company or uniformed

unit of the department.

(g) The director may call special Texas Rangers into service to:

(1) preserve the peace and protect life and property;

(2) conduct background investigations;

(3) monitor sex offenders;

(4) serve as part of two-officer units on patrol in high threat areas; and

(5) provide assistance to the department during disasters.

SECTION 11. Subsection (d), Section 508.145, Government Code, is amended to read as follows:

(d) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, ~~or for~~ an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, or an offense under Section 71.02 or 71.023, Penal Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

SECTION 12. Subsection (a), Section 508.149, Government Code, is amended to read as follows:

(a) An inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of:

1           (1) an offense for which the judgment contains an  
2 affirmative finding under Section 3g(a)(2), Article 42.12, Code of  
3 Criminal Procedure;

4           (2) a first degree felony or a second degree felony  
5 under Section 19.02, Penal Code;

6           (3) a capital felony under Section 19.03, Penal Code;

7           (4) a first degree felony or a second degree felony  
8 under Section 20.04, Penal Code;

9           (5) an offense under Section 21.11, Penal Code;

10          (6) a felony under Section 22.011, Penal Code;

11          (7) a first degree felony or a second degree felony  
12 under Section 22.02, Penal Code;

13          (8) a first degree felony under Section 22.021, Penal  
14 Code;

15          (9) a first degree felony under Section 22.04, Penal  
16 Code;

17          (10) a first degree felony under Section 28.02, Penal  
18 Code;

19          (11) a second degree felony under Section 29.02, Penal  
20 Code;

21          (12) a first degree felony under Section 29.03, Penal  
22 Code;

23          (13) a first degree felony under Section 30.02, Penal  
24 Code;

25          (14) a felony for which the punishment is increased  
26 under Section 481.134 or Section 481.140, Health and Safety Code;

27          (15) an offense under Section 43.25, Penal Code;

(16) an offense under Section 21.02, Penal Code; ~~[or]~~

(17) a first degree felony under Section 15.03, Penal Code; or

(18) a first degree felony under Section 71.02 or 71.023, Penal Code.

SECTION 13. Subsection (a), Section 511.0101, Government Code, as amended by Chapters 977 (H.B. 3654) and 1215 (S.B. 1009), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:

(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:

- (A) total prisoners;
- (B) pretrial Class C misdemeanor offenders;
- (C) pretrial Class A and B misdemeanor offenders;
- (D) convicted misdemeanor offenders;
- (E) felony offenders whose penalty has been reduced to a misdemeanor;
- (F) pretrial felony offenders;
- (G) convicted felony offenders;
- (H) prisoners detained on bench warrants;
- (I) prisoners detained for parole violations;
- (J) prisoners detained for federal officers;
- (K) prisoners awaiting transfer to the

1 institutional division of the Texas Department of Criminal Justice  
2 following conviction of a felony or revocation of probation,  
3 parole, or release on mandatory supervision and for whom paperwork  
4 and processing required for transfer have been completed;

5 (L) prisoners detained after having been  
6 transferred from another jail and for whom the commission has made a  
7 payment under Subchapter F, Chapter 499, Government Code;

8 (M) prisoners for whom an immigration detainer  
9 has been issued by United States Immigration and Customs  
10 Enforcement ~~[who are known to be pregnant]~~; and

11 (N) other prisoners;

12 (2) the total capacity of the county jail on the first  
13 day of the month;

14 (3) the total number of prisoners who were confined in  
15 the county jail during the preceding month, based on a count  
16 conducted on each day of that month, who were known or had been  
17 determined to be pregnant; ~~[and]~~

18 (4) the total cost to the county during the preceding  
19 month of housing prisoners described by Subdivision (1)(M),  
20 calculated based on the average daily cost of housing a prisoner in  
21 the county jail; and

22 (5) certification by the reporting official that the  
23 information in the report is accurate.

24 SECTION 14. Title 7, Government Code, is amended by adding  
25 Chapter 793 to read as follows:

26 CHAPTER 793. STATE SOVEREIGNTY

27 Sec. 793.001. FINDINGS. (a) The Legislature of the State

1 of Texas makes findings as stated in this section.

2 (b) The Tenth Amendment to the United States Constitution  
3 guarantees to the states and the people all powers not granted to  
4 the federal government elsewhere in the constitution and reserves  
5 to the state and people of Texas certain powers as they were  
6 understood at the time that Texas was admitted to statehood in 1845.  
7 The guaranty of those powers is a matter of contract between the  
8 state and people of Texas and the United States dating from the time  
9 Texas became a state.

10 (c) The Ninth Amendment to the United States Constitution  
11 guarantees to the people rights not otherwise granted in the  
12 constitution and reserves to the people of Texas certain rights as  
13 they were understood at the time that Texas became a state. The  
14 guaranty of those rights is a matter of contract between the state  
15 and people of Texas and the United States dating from the time Texas  
16 became a state.

17 Sec. 793.002. STATE SOVEREIGNTY. Except as limited by the  
18 minimum due process and equal protection requirements imposed on  
19 the states by the Fourteenth Amendment to the United States  
20 Constitution, the State of Texas reasserts and reaffirms the  
21 state's autonomous sovereign authority under the Tenth Amendment to  
22 preserve and protect the security, safety, health, welfare,  
23 property, and morals of the citizens of the state without  
24 interference or oversight from federal authorities.

25 Sec. 793.003. ACTION DEFENDING STATE SOVEREIGNTY; DUTY OF  
26 ATTORNEY GENERAL TO REPRESENT STATE. (a) In order to protect the  
27 state's sovereign authority to determine for itself the appropriate

1 means to preserve and protect the security, safety, health,  
2 welfare, property, and morals of the citizens of the state, the  
3 governor or a member of the legislature may bring a civil suit in  
4 the individual's official capacity to challenge any action taken by  
5 a federal authority that attempts to interfere with the state's  
6 sovereign authority.

7 (b) The attorney general shall represent the governor and a  
8 member of the legislature in any litigation brought under this  
9 section, including an action brought by the governor or a member of  
10 the legislature in the governor's or member's official capacity.

11 (c) The governor and a member of the legislature bringing an  
12 action in the individual's official capacity under this section are  
13 immune from civil liability resulting from the governor's or  
14 member's participation in litigation under this section, including  
15 liability for attorney's fees, costs, and sanctions that may be  
16 awarded in the litigation.

17 SECTION 15. Subchapter C, Chapter 2155, Government Code, is  
18 amended by adding Section 2155.151 to read as follows:

19 Sec. 2155.151. CERTAIN PURCHASES BY STATE AGENCY PERFORMING  
20 LAW ENFORCEMENT FUNCTIONS. (a) Except as provided by Subsection  
21 (b), the governing body of a state agency that performs a law  
22 enforcement function may exempt the agency from the purchasing  
23 procedures under this subtitle or Chapter 2252 for the purpose of  
24 purchasing equipment related to the agency's law enforcement  
25 functions if the governing body:

26 (1) obtains a written opinion from the comptroller or  
27 the Legislative Budget Board on whether the procedures should be



1 waived; and

2 (2) after considering the written opinion under  
3 Subdivision (1), determines that following those procedures would  
4 negatively impact homeland security or impair the agency's ability  
5 to perform the agency's law enforcement functions.

6 (b) The governing body of a state agency may not exempt the  
7 agency from purchasing procedures under:

8 (1) this chapter or Chapter 2156 relating to the use of  
9 requests for proposal and competitive bidding;

10 (2) Section 2155.385;

11 (3) Chapter 2157 relating to the use of requests for  
12 proposal, competitive sealed proposals, competitive sealed  
13 bidding, and informal competitive bidding;

14 (4) Chapter 2161;

15 (5) Subchapters A and B, Chapter 2171;

16 (6) Section 2252.002; or

17 (7) Subchapter E, Chapter 2252.

18 SECTION 16. Subsection (a), Section 2166.003, Government  
19 Code, is amended to read as follows:

20 (a) Unless otherwise provided, this chapter does not apply  
21 to:

22 (1) a project constructed by and for the Texas  
23 Department of Transportation;

24 (2) a project constructed by and for a state  
25 institution of higher education;

26 (3) a pen, shed, or ancillary building constructed by  
27 and for the Department of Agriculture for the processing of

1 livestock before export;

2 (4) a project constructed by the Parks and Wildlife  
3 Department;

4 (5) a repair or rehabilitation project, except a major  
5 renovation, of buildings and grounds on the commission inventory;

6 (6) a repair and rehabilitation project of another  
7 using agency, if all labor for the project is provided by the  
8 regular maintenance force of the using agency under specific  
9 legislative authorization and the project does not require the  
10 advance preparation of working plans or drawings;

11 (7) a repair and rehabilitation project involving the  
12 use of contract labor, if the project has been excluded from this  
13 chapter by commission rule and does not require the advance  
14 preparation of working plans or drawings;

15 (8) an action taken by the Texas Commission on  
16 Environmental Quality under Subchapter F or I, Chapter 361, Health  
17 and Safety Code;

18 (9) a repair, rehabilitation, or construction project  
19 on property owned by the Texas Department of Housing and Community  
20 Affairs or the Texas State Affordable Housing Corporation; ~~[or]~~

21 (10) a project constructed by and for the Veterans'  
22 Land Board; or

23 (11) a project constructed by and for the Department  
24 of Public Safety.

25 SECTION 17. (a) The purpose of this section is to provide  
26 for the execution of the policies of the federal Immigration and  
27 Nationality Act (8 U.S.C. Section 1101 et seq.), identify

1 employment practices that violate Sections 1324(a)(1) and (a)(2) of  
2 that Act, and make available to this state the full productive  
3 employment capacities of United States citizens, lawful permanent  
4 residents, and employment-authorized foreign-born nationals in  
5 this state.

6 (b) Subtitle B, Title 2, Labor Code, is amended by adding  
7 Chapter 53 to read as follows:

8 CHAPTER 53. EMPLOYMENT OF UNAUTHORIZED FOREIGN NATIONALS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 53.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Workforce  
12 Commission.

13 (2) "Employee" means an individual who is employed by  
14 an employer for compensation.

15 (3) "Employer" means a person who:  
16 (A) employs one or more employees; or  
17 (B) acts directly or indirectly in the interests  
18 of an employer in relation to an employee.

19 (4) "E-Verify program" means the electronic  
20 verification of work authorization program of the federal Illegal  
21 Immigration Reform and Immigrant Responsibility Act of 1996 (Pub.  
22 L. No. 104-208, reprinted in note, 8 U.S.C. Section 1324a),  
23 operated by the United States Department of Homeland Security, or a  
24 successor work authorization program designated by the United  
25 States Department of Homeland Security or another federal agency  
26 authorized to verify the work authorization status of newly hired  
27 employees under the federal Immigration Reform and Control Act of

1986 (8 U.S.C. Section 1101 et seq.).

(5) "Knowingly" means, with respect to employing, recruiting, or referring an unauthorized foreign national, having actual knowledge that a person is an unauthorized foreign national or failing to perform a legal duty to determine the employment eligibility status of an unauthorized foreign national.

(6) "Lawful resident alien" means a person who is entitled to lawful residence in the United States under the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(7) "Lawful resident verification information" means the documentation required by the United States Department of Homeland Security for completing the employment eligibility verification form commonly referred to as the I-9. Documentation that satisfies the requirements of the Form I-9 at the time of employment is lawful resident verification information.

(8) "Unauthorized foreign national" means a foreign national who at the time of employment is neither an alien who is lawfully admitted for permanent residence in the United States under the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) nor authorized to be employed by that Act or the United States attorney general.

Sec. 53.002. RULES. The commission shall adopt rules for the administration of this chapter.

[Sections 53.003-53.050 reserved for expansion]

SUBCHAPTER B. PROHIBITION AGAINST KNOWING EMPLOYMENT OF

UNAUTHORIZED FOREIGN NATIONAL

Sec. 53.051. PROHIBITION AGAINST KNOWING EMPLOYMENT OF

1 UNAUTHORIZED FOREIGN NATIONAL. (a) An employer may not knowingly  
2 employ, or recruit or refer for a fee for employment, an  
3 unauthorized foreign national.

4 (b) An employer has not violated Subsection (a) in regard to  
5 a particular employee if:

6 (1) the employer, at least four calendar days after  
7 the commencement of the employee's employment, requested from the  
8 employee and received and documented in the employee's employment  
9 record lawful resident verification information consistent with  
10 employer requirements under the federal Immigration Reform and  
11 Control Act of 1986 (8 U.S.C. Section 1101 et seq.); and

12 (2) the lawful resident verification information  
13 provided by the employee later was determined to be false.

14 (c) An employer has not violated Subsection (a) in regard to  
15 a particular employee if the employer verified the immigrant status  
16 of the person at least four calendar days after the commencement of  
17 the employee's employment through the E-Verify program.

18 [Sections 53.052-53.100 reserved for expansion]

19 SUBCHAPTER C. FILING COMPLAINTS

20 Sec. 53.101. FILING COMPLAINT. (a) A person who has reason  
21 to believe that an employer has violated Section 53.051(a) may file  
22 a complaint with the commission.

23 (b) A complaint must:

24 (1) be in writing on a form prescribed by the  
25 commission; and

26 (2) be verified by the person making the complaint.

27 (c) A person may file a complaint under this section:

1           (1) in person at an office of the commission; or  
2           (2) by mailing the complaint to an address designated  
3 by the commission.

4           [Sections 53.102-53.150 reserved for expansion]

5           SUBCHAPTER D. BIENNIAL REPORT TO LEGISLATURE

6           Sec. 53.151. BIENNIAL REPORT TO LEGISLATURE. (a) Not later  
7 than November 1 of each even-numbered year, the commission shall  
8 prepare and submit to the governor and the legislature a written  
9 report based on nonidentifiable, summary data compiled by the  
10 commission from complaints filed under Subchapter C during the two  
11 preceding state fiscal years.

12           (b) The report must include any relevant information and  
13 analysis the commission determines would assist the legislature in  
14 making informed decisions regarding the issue of illegal  
15 immigration as it relates to employment in this state.

16           (c) The report may not include any information that could  
17 reasonably be expected to reveal the identity of a particular  
18 employer or employee or of a person who files a complaint with the  
19 commission under Subchapter C.

20           SECTION 18. Subsections (b) and (c), Section 38.04, Penal  
21 Code, are amended to read as follows:

22           (b) An offense under this section is a Class A misdemeanor,  
23 except that the offense is:

24           (1) a state jail felony if~~+~~  
25               ~~[(A)]~~ the actor has been previously convicted  
26 under this section; ~~[or~~

27               ~~[(B) the actor uses a vehicle while the actor is~~

1 ~~in flight and the actor has not been previously convicted under this~~  
2 ~~section;~~]

3 (2) a felony of the third degree if:

4 (A) the actor uses a vehicle while the actor is in  
5 flight [~~and the actor has been previously convicted under this~~  
6 ~~section~~]; [~~or~~]

7 (B) another suffers serious bodily injury as a  
8 direct result of an attempt by the officer from whom the actor is  
9 fleeing to apprehend the actor while the actor is in flight; or

10 (C) the actor uses a tire deflation device  
11 against the officer while the actor is in flight; or

12 (3) a felony of the second degree if:

13 (A) another suffers death as a direct result of  
14 an attempt by the officer from whom the actor is fleeing to  
15 apprehend the actor while the actor is in flight; or

16 (B) another suffers serious bodily injury as a  
17 direct result of the actor's use of a tire deflation device while  
18 the actor is in flight.

19 (c) In this section:

20 (1) "Vehicle" [~~,"vehicle"~~] has the meaning assigned  
21 by Section 541.201, Transportation Code.

22 (2) "Tire deflation device" has the meaning assigned  
23 by Section 46.01.

24 SECTION 19. Section 46.01, Penal Code, is amended by adding  
25 Subdivision (17) to read as follows:

26 (17) "Tire deflation device" means a device, including  
27 a caltrop or spike strip, that, when driven over, impedes or stops

1 the movement of a wheeled vehicle by puncturing one or more of the  
2 vehicle's tires. The term does not include a traffic control device  
3 that:

4 (A) is designed to puncture one or more of a  
5 vehicle's tires when driven over in a specific direction; and

6 (B) has a clearly visible sign posted in close  
7 proximity to the traffic control device that prohibits entry or  
8 warns motor vehicle operators of the traffic control device.

9 SECTION 20. Subsections (a), (d), and (e), Section 46.05,  
10 Penal Code, are amended to read as follows:

11 (a) A person commits an offense if the person ~~[he]~~  
12 intentionally or knowingly possesses, manufactures, transports,  
13 repairs, or sells:

- 14 (1) an explosive weapon;
- 15 (2) a machine gun;
- 16 (3) a short-barrel firearm;
- 17 (4) a firearm silencer;
- 18 (5) a switchblade knife;
- 19 (6) knuckles;
- 20 (7) armor-piercing ammunition;
- 21 (8) a chemical dispensing device; ~~[or]~~
- 22 (9) a zip gun; or
- 23 (10) a tire deflation device.

24 (d) It is an affirmative defense to prosecution under this  
25 section that the actor's conduct:

26 (1) was incidental to dealing with a switchblade  
27 knife, springblade knife, ~~[or]~~ short-barrel firearm, or tire



1 deflation device solely as an antique or curio; ~~[or]~~

2 (2) was incidental to dealing with armor-piercing  
3 ammunition solely for the purpose of making the ammunition  
4 available to an organization, agency, or institution listed in  
5 Subsection (b); or

6 (3) was incidental to dealing with a tire deflation  
7 device solely for the purpose of making the device available to an  
8 organization, agency, or institution listed in Subsection (b).

9 (e) An offense under Subsection (a)(1), (2), (3), (4), (7),  
10 (8), or (9) ~~[this section]~~ is a felony of the third degree. An  
11 offense ~~[unless it is committed]~~ under Subsection (a)(5) or  
12 (a)(6) ~~[, in which event, it]~~ is a Class A misdemeanor. An offense  
13 under Subsection (a)(10) is a state jail felony.

14 SECTION 21. Subsection (b), Section 71.02, Penal Code, as  
15 amended by Chapters 761 (H.B. 354) and 900 (S.B. 1067), Acts of the  
16 73rd Legislature, Regular Session, 1993, is reenacted and amended  
17 to read as follows:

18 (b) Except as provided in Subsections (c) and (d), an  
19 offense under this section is one category higher than the most  
20 serious offense listed in Subsection (a) that was committed, and if  
21 the most serious offense is a Class A misdemeanor, the offense is a  
22 state jail felony, except that if the most serious offense is a  
23 felony of the first degree, the offense is a felony of the first  
24 degree punishable by imprisonment in the Texas Department of  
25 Criminal Justice for life or for any term of not more than 99 years  
26 or less than 15 years.

27 SECTION 22. Subsection (c), Section 71.02, Penal Code, as

amended by Chapters 761 (H.B. 354) and 900 (S.B. 1067), Acts of the 73rd Legislature, Regular Session, 1993, is reenacted to read as follows:

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

SECTION 23. Section 71.023, Penal Code, is amended to read as follows:

Sec. 71.023. DIRECTING ACTIVITIES OF ~~[CERTAIN]~~ CRIMINAL STREET GANGS. (a) A person commits an offense if the person, as part of the identifiable leadership of a criminal street gang, knowingly ~~[initiates, organizes, plans,]~~ finances, directs, ~~[manages,]~~ or supervises the commission of, or a conspiracy to commit, one or more of the following offenses by [a criminal street gang or] members of a criminal street gang:

(1) a felony that is listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(2) a felony for which it is shown that a deadly weapon, as defined by Section 1.07, was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; or

(3) an offense that is punishable as a felony of the first or second degree under Chapter 481, Health and Safety Code ~~[with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing, position, or status in the criminal street gang].~~

(b) An offense under this section is a felony of the first

1 degree punishable by imprisonment in the Texas Department of  
2 Criminal Justice for life or for any term of not more than 99 years  
3 or less than 25 years.

4 ~~[(c) Notwithstanding Section 71.01, in this section,~~  
5 ~~"criminal street gang" means:~~

6 ~~[(1) an organization that:~~

7 ~~[(A) has more than 10 members whose names are~~  
8 ~~included in an intelligence database under Chapter 61, Code of~~  
9 ~~Criminal Procedure;~~

10 ~~[(B) has a hierarchical structure that has been~~  
11 ~~documented in an intelligence database under Chapter 61, Code of~~  
12 ~~Criminal Procedure;~~

13 ~~[(C) engages in profit-sharing among two or more~~  
14 ~~members of the organization; and~~

15 ~~[(D) in one or more regions of this state served~~  
16 ~~by different regional councils of government, continuously or~~  
17 ~~regularly engages in conduct.~~

18 ~~[(i) that constitutes an offense listed in~~  
19 ~~Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;~~

20 ~~[(ii) in which it is alleged that a deadly~~  
21 ~~weapon is used or exhibited during the commission of or immediate~~  
22 ~~flight from the commission of any felony offense; or~~

23 ~~[(iii) that is punishable as a felony of the~~  
24 ~~first or second degree under Chapter 481, Health and Safety Code; or~~

25 ~~[(2) an organization that, in collaboration with an~~  
26 ~~organization described by Subdivision (1), engages in conduct or~~  
27 ~~commits an offense or conspires to engage in conduct or commit an~~

~~offense described by Subdivision (1)(D).]~~

SECTION 24. Subsection (b), Section 521.041, Transportation Code, is amended to read as follows:

(b) The department shall maintain suitable indexes, in alphabetical or numerical order, that contain:

(1) each denied application and the reasons for the denial;

(2) each application that is granted; ~~and~~

(3) the name of each license holder whose license has been suspended, canceled, or revoked and the reasons for that action; and

(4) the citizenship status of each holder of a license or personal identification certificate.

SECTION 25. Section 521.101, Transportation Code, is amended by adding Subsections (d-1), (f-2), and (f-3) and amending Subsection (f) to read as follows:

(d-1) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate personal identification certificate to furnish to the department:

(1) proof of the applicant's United States citizenship; or

(2) documentation described by Subsection (f-2).

(f) A personal identification certificate:

(1) for an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States:

1                   (A) expires on a date specified by the department  
2 if the applicant is younger than 60 years of age; or

3                   (B) does not expire if the applicant is 60 years  
4 of age or older; or

5                   (2) for an applicant not described by Subdivision (1),  
6 expires on:

7                   (A) the earlier of:

8                               (i) a date specified by the department; or

9                               (ii) the expiration date of the applicant's  
10 authorized stay in the United States; or

11                   (B) the first anniversary of the date of  
12 issuance, if there is no definite expiration date for the  
13 applicant's authorized stay in the United States~~[, except that a~~  
14 ~~certificate issued to a person 60 years of age or older does not~~  
15 ~~expire].~~

16                   (f-2) An applicant who is not a citizen of the United States  
17 must present to the department documentation issued by the  
18 appropriate United States agency that authorizes the applicant to  
19 be in the United States.

20                   (f-3) The department may not issue a personal  
21 identification certificate to an applicant who fails or refuses to  
22 comply with Subsection (f-2).

23                   SECTION 26. Section 521.103, Transportation Code, is  
24 amended by adding Subsection (c) to read as follows:

25                   (c) Sections 521.101(f-2) and (f-3) apply to a personal  
26 identification certificate for which application is made under this  
27 section.

SECTION 27. Subsections (a) and (e), Section 521.142, Transportation Code, are amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States before the applicant may be issued a driver's license. The department must accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

(e) The application must include any other information the department requires to determine the applicant's identity, residency, competency, and eligibility as required by the department or state law.

SECTION 28. Section 521.1425, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections ~~[Subsection]~~ (b) and (c), the department may require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Section 521.142.

(c) Unless the information has been previously provided to

1 the department, the department shall require each applicant for an  
2 original, renewal, or duplicate driver's license to furnish to the  
3 department:

4 (1) proof of the applicant's United States  
5 citizenship; or

6 (2) documentation described by Section 521.142(a).

7 SECTION 29. Section 521.271, Transportation Code, is  
8 amended by amending Subsections (a) and (b) and adding Subsections  
9 (a-2), (a-3), and (a-4) to read as follows:

10 (a) Each original driver's license, ~~and~~ provisional  
11 license, instruction permit, or occupational driver's license  
12 issued to an applicant who is a citizen, national, or legal  
13 permanent resident of the United States or a refugee or asylee  
14 lawfully admitted into the United States expires as follows:

15 (1) except as provided by Section 521.2711, a driver's  
16 license expires on the first birthday of the license holder  
17 occurring after the sixth anniversary of the date of the  
18 application;

19 (2) a provisional license expires on the 18th  
20 birthday of the license holder;

21 (3) an instruction permit expires on the 18th birthday  
22 of the license holder;

23 (4) an occupational driver's license expires on the  
24 first anniversary of the court order granting the license; and

25 (5) unless an earlier date is otherwise provided, a  
26 driver's license issued to a person whose residence or domicile is a  
27 correctional facility or a parole facility expires on the first

birthday of the license holder occurring after the first anniversary of the date of issuance.

(a-2) Each original driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the sixth anniversary of the date of the application; or

(B) the expiration date of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States.

(a-3) Each original provisional license or instruction permit issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earliest of:

(1) the 18th birthday of the license holder;

(2) the first birthday of the license holder occurring after the date of the application; or

(3) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance



1 with federal law.

2 (a-4) Each original occupational driver's license issued to  
3 an applicant who is not a citizen, national, or legal permanent  
4 resident of the United States or a refugee or asylee lawfully  
5 admitted into the United States expires on the earlier of:

6 (1) the first anniversary of the date of issuance; or

7 (2) the expiration of the license holder's lawful  
8 presence in the United States as determined by the appropriate  
9 United States agency in compliance with federal law.

10 (b) Except as provided by Section 521.2711, a driver's  
11 license that is renewed expires on the earlier of:

12 (1) the sixth anniversary of the expiration date  
13 before renewal if the applicant is a citizen, national, or legal  
14 permanent resident of the United States or a refugee or asylee  
15 lawfully admitted into the United States;

16 (1-a) for an applicant not described by Subdivision

17 (1):

18 (A) the earlier of:

19 (i) the sixth anniversary of the expiration  
20 date before renewal; or

21 (ii) the expiration date of the applicant's  
22 authorized stay in the United States; or

23 (B) the first anniversary of the date of  
24 issuance, if there is no definite expiration date for the  
25 applicant's authorized stay in the United States; or

26 (2) for a renewal driver's license issued to a person  
27 whose residence or domicile is a correctional facility or a parole

1 facility, the first birthday of the license holder occurring after  
2 the first anniversary of the date of issuance unless an earlier date  
3 is otherwise provided.

4 SECTION 30. Section 521.2711, Transportation Code, is  
5 amended by adding Subsection (c) to read as follows:

6 (c) Notwithstanding Subsections (a) and (b), an original or  
7 renewal driver's license issued to an applicant who is 85 years of  
8 age or older and not a citizen, national, or legal permanent  
9 resident of the United States or a refugee or asylee lawfully  
10 admitted into the United States expires on:

11 (1) the earlier of:

12 (A) the second anniversary of the expiration date  
13 before renewal; or

14 (B) the expiration date of the applicant's  
15 authorized stay in the United States; or

16 (2) the first anniversary of the date of issuance if  
17 there is no definite expiration date for the applicant's authorized  
18 stay in the United States.

19 SECTION 31. Section 521.272, Transportation Code, is  
20 amended by amending Subsection (c) and adding Subsection (d) to  
21 read as follows:

22 (c) Notwithstanding Sections [~~Section~~] 521.271 and  
23 521.2711, a driver's license issued under this section, including a  
24 renewal, duplicate, or corrected license, expires:

25 (1) if the license holder is a citizen, national, or  
26 legal permanent resident of the United States or a refugee or asylee  
27 lawfully admitted into the United States, on the first birthday of

1 the license holder occurring after the date of application, except  
2 that the initial license issued under this section expires on the  
3 second birthday of the license holder occurring after the date of  
4 application; or

5 (2) if the applicant is not described by Subdivision  
6 (1), on the earlier of:

7 (A) the expiration date of the applicant's  
8 authorized stay in the United States; or

9 (B) the first birthday of the license holder  
10 occurring after the date of application, except that the initial  
11 license issued under this section expires on the second birthday of  
12 the license holder occurring after the date of application.

13 (d) Subsection (c) [~~This subsection~~] does not apply to:

14 (1) a provisional license;

15 (2) an instruction permit issued under Section  
16 521.222; or

17 (3) a hardship license issued under Section 521.223.

18 SECTION 32. Section 521.421, Transportation Code, is  
19 amended by adding Subsection (a-3) to read as follows:

20 (a-3) Except as provided by Subsections (a-1) and (a-2), the  
21 fee for a driver's license or personal identification certificate  
22 that is issued to a person who is not a citizen, national, or legal  
23 permanent resident of the United States or a refugee or asylee  
24 lawfully admitted into the United States and that is valid for not  
25 more than one year is \$24.

26 SECTION 33. Section 522.005, Transportation Code, is  
27 amended to read as follows:

1       Sec. 522.005. RULEMAKING AUTHORITY. The department may  
2   adopt rules necessary to carry out this chapter and the federal act  
3   and to maintain compliance with 49 C.F.R. Parts 383 and 384.

4       SECTION 34. Section 522.030, Transportation Code, is  
5   amended to read as follows:

6       Sec. 522.030. CONTENT OF LICENSE. (a) A commercial  
7   driver's license must:

8           (1) be marked "Commercial Driver License" or "CDL";

9           (2) be, to the extent practicable, tamper-proof; and

10          (3) include:

11           (A) the name and mailing address of the person to  
12   whom it is issued;

13           (B) the person's color photograph;

14           (C) a physical description of the person,  
15   including sex, height, and eye color;

16           (D) the person's date of birth;

17           (E) a number or identifier the department  
18   considers appropriate;

19           (F) the person's signature;

20           (G) each class of commercial motor vehicle that  
21   the person is authorized to drive, with any endorsements or  
22   restrictions;

23           (H) the name of this state; and

24           (I) the dates between which the license is valid.

25       (b) To the extent of a conflict or inconsistency between  
26   this section and Section 522.013 or 522.051, Section 522.013 or  
27   522.051 controls.

SECTION 35. Subsection (b), Section 522.033, Transportation Code, is amended to read as follows:

(b) Notwithstanding Section 522.051, a commercial driver's license or commercial driver learner's permit issued under this section, including a renewal, duplicate, or corrected license, expires:

(1) if the license or permit holder is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application; or

(2) if the applicant is not described by Subdivision (1), on the earlier of:

(A) the expiration date of the applicant's authorized stay in the United States; or

(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.

SECTION 36. Section 522.052, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) Unless the information has been previously provided to the department, the department shall require each applicant for a renewal or duplicate commercial driver's license to furnish to the department:

- 1           (1) proof of the applicant's United States  
2 citizenship; or  
3           (2) documentation described by Section 521.142(a).

4           SECTION 37. Subsection (a), Section 4, Article 37.07, Code  
5 of Criminal Procedure, Sections 508.145 and 508.149, Government  
6 Code, and Sections 38.04, 71.02, and 71.023, Penal Code, as amended  
7 by this Act, apply only to an offense committed on or after the  
8 effective date of this Act. An offense committed before the  
9 effective date of this Act is governed by the law in effect when the  
10 offense was committed, and the former law is continued in effect for  
11 that purpose. For purposes of this section, an offense was  
12 committed before the effective date of this Act if any element of  
13 the offense occurred before that date.

14          SECTION 38. Article 59.06, Code of Criminal Procedure, as  
15 amended by this Act, applies to property seized or taken into  
16 custody on or after the effective date of this Act. Property seized  
17 or taken into custody before the effective date of this Act is  
18 governed by the law in effect on the date the property is seized or  
19 taken into custody, and the former law is continued in effect for  
20 that purpose.

21          SECTION 39. A county shall submit the first report required  
22 by Section 511.0101, Government Code, as amended by this Act, not  
23 later than October 5, 2011.

24          SECTION 40. Chapter 53, Labor Code, as added by this Act,  
25 applies only to a violation that occurs on or after the effective  
26 date of this Act.

27          SECTION 41. The changes in law made by this Act to Chapters

1 521 and 522, Transportation Code, apply only to a driver's license,  
2 personal identification certificate, commercial driver's license,  
3 or commercial driver learner's permit issued, reissued,  
4 reinstated, or renewed on or after the effective date of this Act.  
5 A driver's license, personal identification certificate,  
6 commercial driver's license, or commercial driver learner's permit  
7 issued, reissued, reinstated, or renewed before the effective date  
8 of this Act is governed by the law in effect when the license,  
9 certificate, or permit was issued, reissued, reinstated, or  
10 renewed, and the former law is continued in effect for that purpose.

11 SECTION 42. This Act takes effect September 1, 2011.