

**House Bill 148**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>SECTION 1. Section 86.0051, Election Code, is amended by adding Subsections (b-1) and (f) and amending Subsections (c), (d), and (e) to read as follows:</p> <p><u>(b-1) A person to whom Section 86.006(f)(4) applies may not deposit in the mail or with a common or contract carrier more than 10 carrier envelopes containing ballots voted by other persons in an election. This subsection does not apply to a carrier envelope containing a ballot voted by a member of the armed forces of the United States or the spouse or dependent of a member.</u></p> <p>(c) A person commits an offense if the person knowingly violates Subsection (b) <u>or (b-1) or knowingly directs a person to engage in conduct that violates Subsection (b-1).</u> It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope.</p> <p>(d) An offense under this section is a Class <u>A</u> <del>[B]</del> misdemeanor, unless the person is convicted of an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a state jail felony.</p> <p>(e) Subsections (a) and (c) do not apply if the person is related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code<del>[, or is registered to vote at the same address as the applicant].</del> <u>Subsection (c) does not apply to an employee of a state licensed care facility or state-certified facility not subject to state licensure where the voter resides who is working in the normal course of the employee's authorized duties.</u></p> <p><u>(f) It is an affirmative defense to prosecution for an offense under this section that the person deposited carrier envelopes</u></p>	<p>No equivalent provision.</p>	

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containing ballots voted by another person if the voter requested assistance from the person in depositing the envelope and that assistance was provided in the course of the person's normal duties as caretaker of the voter.

No equivalent provision.

SECTION 2. Chapter 86, Election Code, is amended by adding Section 86.0052 to read as follows:

Sec. 86.0052. COMPENSATION OF ANOTHER FOR COLLECTING BALLOTING MATERIALS PROHIBITED.

(a) A person commits an offense if the person compensates another person to engage in conduct prohibited by Section 86.0051(b-1).

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SECTION 1. Section 86.0051, Election Code, is amended by adding Subsections (b-1) and (f) and amending Subsections (c), (d), and (e) to read as follows: [Deleted by FA1(1)]

SECTION 2. Chapter 86, Election Code, is amended by adding Section 86.0052 to read as follows:

Sec. 86.0052. COMPENSATION FOR CARRIER ENVELOPE ACTION PROHIBITED. (a) A person commits

an offense if the person:

(1) compensates another person for depositing the carrier envelope in the mail or with a common or contract carrier as provided by Section 86.0051(b), including by any performance-based compensation scheme based on the number of ballots deposited or in which another person is presented with a quota of ballots to deposit as provided by Section 86.0051(b);

(2) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of ballots deposited as provided by Section 86.0051(b); or

(3) with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2). [FA1(2)-(3)]

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:

(1) confinement in jail for a term of not more than one year or less than 30 days; or

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(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.

(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.

(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

(e) For purposes of this section, compensation means any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for depositing ballots. [FA1(4)]

SECTION \_\_. Chapter 86, Election Code, is amended by adding Section 86.0105 to read as follows:

Sec. 86.0105. COMPENSATION FOR ASSISTING VOTERS PROHIBITED. (a) A person commits an offense if the person:

(1) compensates another person for assisting voters as provided by Section 86.010, including by any performance-based compensation scheme based on the number of voters assisted or in which another person is presented with a quota of voters to be assisted as provided by Section 86.010;

(2) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voters assisted as provided by Section 86.010; or

(3) with knowledge that accepting compensation for such activity is illegal, accepts compensation for an activity described by Subdivision (1) or (2).

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(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:  
(1) confinement in jail for a term of not more than one year or less than 30 days; or  
(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.  
(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.

SECTION 3. Section 86.006, Election Code, is amended by amending Subsection (f) and adding Subsection (j) 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, this subsection does not apply to a 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;

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(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by:  
(1) confinement in jail for a term of not more than one year or less than 30 days; or  
(2) confinement described by Subdivision (1) and a fine not to exceed \$4,000.  
(c) An offense under this section is a state jail felony if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section.  
(d) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.  
(e) For purposes of this section, compensation means any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for assisting voters. [FA1(6)]

SECTION 3. No equivalent provision. [Deleted by FA1(5)]

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<p>(3) an early voting clerk or a deputy early voting clerk;</p> <p>(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;</p> <p>(5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; <del>[or]</del></p> <p>(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; <u>or</u></p> <p><u>(7) an employee of a state licensed care facility or state-certified facility not subject to state licensure where the voter resides who is working in the normal course of the employee's authorized duties.</u></p> <p><u>(j) It is an affirmative defense to prosecution for an offense under Subsection (f) that the person possessed an official ballot or official carrier envelope provided to a voter, other than the person, if the voter requested assistance from the person and that assistance was provided in the course of the person's normal duties as caretaker of the voter.</u></p> <p>SECTION 4. Section 86.010(h), Election Code, is amended to read as follows:</p> <p>(h) Subsection (f) does not apply if the person is related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code<del>[, or is registered to vote at the same address as the applicant].</del></p> <p>SECTION 5. Section 86.013(d), Election Code, is amended</p>	<p>SECTION 4. <del>No equivalent provision.</del> [Deleted by FA1(5)]</p> <p>SECTION 5. Section 86.013(d), Election Code, is amended</p>	

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to read as follows:

(d) The following textual material, as prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope or on a separate sheet accompanying the carrier envelope when it is provided:

(1) the prohibition prescribed by Section 86.006(b);

(2) the conditions for delivery by common or contract carrier prescribed by Sections 81.005 and 86.006;

(3) the requirements for the legal execution and delivery of the carrier envelope, including the limitation on depositing carrier envelopes containing ballots voted by other persons prescribed by Section 86.0051(b-1);

(4) the prohibition prescribed by Section 86.006(e); and

(5) the offenses prescribed by Sections 86.006(f) and 86.010(f).

SECTION 6. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date 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 the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. This Act takes effect September 1, 2013.

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to read as follows:

(d) The following textual material, as prescribed by the secretary of state, must be printed on the reverse side of the official carrier envelope or on a separate sheet accompanying the carrier envelope when it is provided:

(1) the prohibition prescribed by Section 86.006(b);

(2) the conditions for delivery by common or contract carrier prescribed by Sections 81.005 and 86.006;

(3) the requirements for the legal execution and delivery of the carrier envelope, including the prohibition on compensation for depositing carrier envelopes containing ballots voted by other persons under Section 86.0052;  
[FA1(7)-(8)]

(4) the prohibition prescribed by Section 86.006(e); and

(5) the offenses prescribed by Sections 86.006(f) and 86.010(f).

SECTION 6. Same as House version.

SECTION 7. Same as House version.

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