

BILL ANALYSIS

C.S.H.B. 3291
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties are concerned about the theft of pipeline equipment, oil and gas equipment, and oil, gas, and condensate, as well as the unauthorized purchase and sale of oil, gas, and condensate, which can cost the state tens of millions of dollars in uncollected severance taxes each year. Theft operations identified by the oil and gas industry include sophisticated hydrocarbon theft, pipe and scrap metal theft, and solar panel and battery theft. However, the parties note that oil is stolen primarily with vacuum trucks, which are designed to remove water that collects at the bottom of oil storage tanks and to remove production water from wells that are being drilled, but which may also either collect oil along with the removed water or steal oil directly from a tank. The parties further note that stolen oil can be bought and sold by individuals who effectively launder the oil and by companies in the industry. Relatedly, the parties note that a nonproductive well that has been sealed or capped may be purchased by thieves and purported to be the source of stolen oil. C.S.H.B. 3291 seeks to deter these activities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3291 amends the Natural Resources Code to increase from a third degree felony to a second degree felony the penalty for the offense committed by certain persons who knowingly destroy, break, remove, or otherwise tamper with or attempt to destroy, break, remove, or otherwise tamper with any cap, seal, or other device placed on an oil well, gas well, oil and gas well, or associated oil or gas gathering equipment by the owner or operator for the purpose of controlling or limiting the operation of the well or associated equipment. The bill makes it a second degree felony to purchase or sell oil, gas, or condensate without the applicable tender or permit of the Railroad Commission of Texas relating to oil or gas or a product or byproduct of oil or gas.

C.S.H.B. 3291 amends the Penal Code to expand the conduct constituting second degree felony theft to include theft of oil, gas, condensate, pipeline equipment, or oil and gas equipment valued at \$10,000 or more but less than \$200,000. The bill enhances the penalty for an offense involving such conduct to a first degree felony if the actor was employed by or in a contractual relationship with the owner of the equipment or the oil, gas, or condensate and the property appropriated came into the actor's custody, possession, or control by virtue of the employment or contractual

relationship.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3291 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 31.03 (e)(6), Penal Code is amended to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 2. Section 31.03, Penal Code, is amended by amending Subsection (e) and adding Subsection (f-1) to read as follows:

(e) Except as provided by Subsections [~~Subsection~~] (f) and (f-1), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of

(6) a felony of the second degree if:
(A) the value of the property stolen is \$100,000 or more but less than \$200,000; ~~[or]~~
(B) the value of the property stolen is less than \$200,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine;
(C) the value of the property stolen is \$10,000 or more but less than \$200,000 and the property stolen is pipeline equipment or oil and gas equipment as defined by Section 112.001, Natural Resources Code; or
(D) the value of the property stolen is \$10,000 or more but less than \$200,000 and the property stolen is oil or gas as defined by Section 115.001, Natural Resources Code or condensate.

(See Sec. 31.03(f)(6) below.)

\$20,000;
(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;
(C) the property stolen is a firearm, as defined by Section 46.01;
(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;
(E) the property stolen is an official ballot or official carrier envelope for an election; or
(F) the value of the property stolen is less than \$20,000 and the property stolen is:
(i) aluminum;
(ii) bronze;
(iii) copper; or
(iv) brass;
(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:
(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or
(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;
(6) a felony of the second degree if:
(A) the value of the property stolen is \$100,000 or more but less than \$200,000; ~~[or]~~
(B) the value of the property stolen is less than \$200,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine;
or
(C) the value of the property stolen is \$10,000 or more but less than \$200,000 and the property stolen is:
(i) oil and gas equipment or pipeline equipment, as those terms are defined by Section 112.001, Natural Resources Code;
(ii) oil or gas, as those terms are defined by Section 115.001, Natural Resources Code; or
(iii) condensate, as defined by Section 201.001, Tax Code; or
(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

(f-1) Notwithstanding Subsection

(e)(6)(C)(i), (ii), or (iii), an offense described for purposes of punishment by any of those subparagraphs is a felony of the first degree if the actor was employed by or in a contractual relationship with the owner of the equipment or the oil, gas, or condensate and the property appropriated came into the actor's custody, possession, or control by virtue of that employment or contractual relationship.

(See Sec. 31.03(f-1) above.)

SECTION 2. Section 31.03 (f)(2), Penal Code is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; ~~or~~

(5) during the commission of the offense, the actor intentionally, knowingly, or recklessly:

(A) caused a fire exit alarm to sound or otherwise become activated;

(B) deactivated or otherwise prevented a fire exit alarm or retail theft detector from sounding; or

(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector; or

(6) the actor was in a contractual or employment relationship with the owner of the oil, gas, condensate, pipeline equipment, or oil and gas equipment at the time of the offense and the oil, gas, condensate, pipeline equipment, or oil and gas equipment was in the actor's custody, possession, or control by virtue of the contractual or employment relationship.

SECTION 3. Section 85.389, Natural Resources Code is amended to read as follows:

(b) A person who purchases or sells oil, gas or condensate without first obtaining the required registration or permits from the commission for the sale or purchase of oil, gas or condensate commits an offense.

SECTION 1. Section 85.389, Natural Resources Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person commits an offense if the person purchases or sells oil, gas, or condensate without the applicable tender or permit of the commission relating to oil or gas or a product or byproduct of oil or gas.

(c)[b] An offense under this section is a felony of the second [~~third~~] degree.

(c) An offense under this section is a felony of the second [~~third~~] degree.

No equivalent provision.

SECTION 3. The change in law made by this Act applies 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 4. This Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.