

By: Fletcher, Anderson of Dallas, Burkett,
Davis of Dallas, Leach

H.B. No. 102

Substitute the following for H.B. No. 102:

By: Herrero

C.S.H.B. No. 102

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of cargo theft.

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

SECTION 1. The heading to Article 13.08, Code of Criminal Procedure, is amended to read as follows:

Art. 13.08. THEFT; ORGANIZED RETAIL THEFT; CARGO THEFT.

SECTION 2. Article 13.08(b), Code of Criminal Procedure, is amended to read as follows:

(b) An offense under Section 31.16 or 31.18, Penal Code, may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

SECTION 3. Chapter 31, Penal Code, is amended by adding Section 31.18 to read as follows:

Sec. 31.18. CARGO THEFT. (a) In this section:

(1) "Cargo" means goods, as defined by Section 7.102, Business & Commerce Code, that constitute, wholly or partly, a commercial shipment of freight moving in commerce. A shipment is considered to be moving in commerce if the shipment is located at any point between the point of origin and the final point of destination regardless of any temporary stop that is made for the purpose of transshipment or otherwise.

(2) "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person commits an offense if the person:

1 (1) knowingly or intentionally conducts, promotes, or
2 facilitates an activity in which the person receives, possesses,
3 conceals, stores, barter, sells, abandons, or disposes of:

4 (A) stolen cargo; or

5 (B) cargo explicitly represented to the person as
6 being stolen cargo; or

7 (2) is employed as a driver lawfully contracted to
8 transport a specific cargo by vehicle from a known point of origin
9 to a known point of destination and, with the intent to conduct,
10 promote, or facilitate an activity described by Subsection (b)(1),
11 knowingly or intentionally:

12 (A) fails to deliver the entire cargo to the
13 known point of destination as contracted; or

14 (B) causes the seal to be broken on the vehicle or
15 on an intermodal container containing any part of the cargo.

16 (c) An offense under this section is:

17 (1) a state jail felony if the total value of the cargo
18 involved in the activity is less than \$10,000;

19 (2) a felony of the third degree if the total value of
20 the cargo involved in the activity is \$10,000 or more but less than
21 \$100,000;

22 (3) a felony of the second degree if the total value of
23 the cargo involved in the activity is \$100,000 or more but less than
24 \$200,000; or

25 (4) a felony of the first degree if the total value of
26 the cargo involved in the activity is \$200,000 or more.

27 (d) For purposes of Subsection (c), the total value of the

1 cargo involved in the activity includes the value of any vehicle
2 stolen or damaged in the course of the same criminal episode as the
3 conduct that is the subject of the prosecution.

4 (e) An offense described for purposes of punishment by
5 Subsections (c)(1)-(3) is increased to the next higher category of
6 offense if it is shown on the trial of the offense that the person
7 organized, supervised, financed, or managed one or more other
8 persons engaged in an activity described by Subsection (b).

9 (f) It is not a defense to prosecution under this section
10 that:

11 (1) the offense occurred as a result of a deception or
12 strategy on the part of a law enforcement agency, including the use
13 of:

14 (A) an undercover operative or peace officer; or

15 (B) a bait vehicle;

16 (2) the actor was provided by a law enforcement agency
17 with a facility in which to commit the offense or with an
18 opportunity to engage in conduct constituting the offense; or

19 (3) the actor was solicited to commit the offense by a
20 peace officer, and the solicitation was of a type that would
21 encourage a person predisposed to commit the offense to actually
22 commit the offense but would not encourage a person not predisposed
23 to commit the offense to actually commit the offense.

24 SECTION 4. This Act takes effect September 1, 2015.