

By: Burkett

H.B. No. 381

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of burglary of a vehicle and to grants of community supervision to persons who commit that offense.

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

SECTION 1. Section 30.04, Penal Code, is amended by amending Subsections (d) and (e) and adding Subsections (d-2) and (d-3) to read as follows:

(d) An offense under this section is a:

(1) Class B misdemeanor if the amount of pecuniary loss to tangible personal property is less than \$500;

(2) Class A misdemeanor if the amount of pecuniary loss to tangible personal property is \$500 or more but less than \$1,500;

(3) [~~except that:~~

~~[(1) the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section, and~~

~~[(2) the offense is a]~~ state jail felony if:

(A) the amount of pecuniary loss to tangible personal property is \$1,500 or more but less than \$20,000;

(B) the amount of pecuniary loss to tangible personal property is less than \$1,500 and it is shown on the trial

of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(C) the amount of pecuniary loss to tangible personal property is less than \$1,500 and ~~[(B)]~~ the vehicle or part of the vehicle broken into or entered is a rail car;

(4) felony of the third degree if the amount of pecuniary loss to tangible personal property is \$20,000 or more but less than \$100,000;

(5) felony of the second degree if the amount of pecuniary loss to tangible personal property is \$100,000 or more but less than \$200,000; or

(6) felony of the first degree if the amount of pecuniary loss to tangible personal property is \$200,000 or more.

(d-2) For the purposes of Subsection (d), the amount of pecuniary loss to tangible personal property is the sum of:

(1) the cost of repairing or restoring the vehicle, if the defendant damaged the vehicle in the course of committing the offense; and

(2) the fair market value of any tangible personal property the defendant stole from the vehicle, if the defendant committed theft in the course of committing the offense.

(d-3) If the defendant, pursuant to one scheme or continuing course of conduct, commits three or more offenses under this section in a 24-hour period, the conduct may be considered as one offense and the amounts of pecuniary loss aggregated in determining the grade of offense.

(e) It is a defense to prosecution under this section that

1 the defendant [~~actor~~] entered a rail car or any part of a rail car  
2 and was at that time an employee or a representative of employees  
3 exercising a right under the Railway Labor Act (45 U.S.C. Section  
4 151 et seq.).

5 SECTION 2. Section 16(b), Article 42.12, Code of Criminal  
6 Procedure, is amended to read as follows:

7 (b) The amount of community service work ordered by the  
8 judge:

9 (1) may not exceed 1,000 hours for an offense  
10 classified as a first degree felony;

11 (2) may not exceed 800 hours for an offense classified  
12 as a second degree felony;

13 (3) may not exceed 600 hours for an offense classified  
14 as a third degree felony;

15 (4) may not exceed 400 hours for an offense classified  
16 as a state jail felony;

17 (5) may not [~~+~~

18 [~~(A) exceed 600 hours for an offense under~~  
19 ~~Section 30.04, Penal Code, classified as a Class A misdemeanor, or~~

20 [~~(B)~~] exceed 200 hours for an [~~any other~~] offense  
21 classified as a Class A misdemeanor or for any other misdemeanor for  
22 which the maximum permissible confinement, if any, exceeds six  
23 months or the maximum permissible fine, if any, exceeds \$4,000; and

24 (6) may not exceed 100 hours for an offense classified  
25 as a Class B misdemeanor or for any other misdemeanor for which the  
26 maximum permissible confinement, if any, does not exceed six months  
27 and the maximum permissible fine, if any, does not exceed \$4,000.

1           SECTION 3. Sections 3(h) and 4(f), Article [42.12](#), Code of  
2 Criminal Procedure, are repealed.

3           SECTION 4. The change in law made by this Act applies only  
4 to an offense committed on or after the effective date of this Act.  
5 An offense committed before the effective date of this Act is  
6 governed by the law in effect when the offense was committed, and  
7 the former law is continued in effect for that purpose. For  
8 purposes of this section, an offense was committed before the  
9 effective date of this Act if any element of the offense occurred  
10 before that date.

11          SECTION 5. This Act takes effect September 1, 2015.