

By: Lozano

H.B. No. 2806

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of and increasing the punishment for
3 the offense of unlawful smuggling or concealment of persons;
4 creating an offense.

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

6 SECTION 1. The heading to Chapter 20, Penal Code, is amended
7 to read as follows:

8 CHAPTER 20. KIDNAPPING AND ~~[7]~~ UNLAWFUL RESTRAINT, ~~[AND]~~
9 SMUGGLING, OR CONCEALMENT OF PERSONS

10 SECTION 2. The heading to Section 20.05, Penal Code, is
11 amended to read as follows:

12 Sec. 20.05. UNLAWFUL SMUGGLING OR CONCEALMENT OF PERSONS.

13 SECTION 3. Sections 20.05(a), (b), (c), and (d), Penal
14 Code, are amended to read as follows:

15 (a) A person commits an offense if the person intentionally:

16 (1) uses a motor vehicle, aircraft, or watercraft to
17 transport an individual with the intent to:

18 (A) ~~[(1)]~~ conceal the individual or the
19 individual's identity from a peace officer or special investigator;

20 or

21 (B) ~~[(2)]~~ flee from a person the actor knows is a
22 peace officer or special investigator attempting to lawfully arrest
23 or detain the actor;

24 (2) assists, guides, or directs three or more

1 individuals to enter or remain on agricultural land without the
2 effective consent of the owner; or

3 (3) while violating state or federal law, conceals an
4 individual in a structure or in a motor vehicle, aircraft, or
5 watercraft or conceals that individual's identity from a peace
6 officer or special investigator.

7 (b) An [~~Except as provided by Subsection (c), an~~] offense
8 under this section is a [~~state jail~~] felony of the second degree.

9 (c) The minimum term of imprisonment for an [~~An~~] offense
10 under this section is 10 years if it is shown on the trial of the
11 offense that:

12 (1) the actor committed [~~is a felony of the third~~
13 ~~degree if the actor commits~~] the offense:

14 (A) [~~(1)~~] for pecuniary benefit; or

15 (B) [~~(2)~~] in a manner that created [~~creates~~] a
16 substantial likelihood that the smuggled or concealed
17 [~~transported~~] individual would [~~will~~] suffer serious bodily injury
18 or death; or

19 (2) during the commission of the offense the actor,
20 another party to the offense, or an individual assisted, guided, or
21 directed by the actor knowingly possessed a firearm.

22 (d) It is an affirmative defense to prosecution under this
23 section that the actor is related to the smuggled or concealed
24 [~~transported~~] individual within the second degree of consanguinity
25 or, at the time of the offense, within the second degree of
26 affinity.

27 SECTION 4. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 governed by the law in effect on the date the offense was committed,
4 and the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before the
6 effective date of this Act if any element of the offense occurred
7 before that date.

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