

By: Burton

S.B. No. 1822

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of a commission to review certain penal
3 laws of this state and certain recommendations regarding those
4 laws, to criminal offenses previously compiled in statutes outside
5 the Penal Code, to repealing certain of those offenses, and to
6 conforming punishments for certain of those offenses to the penalty
7 structure provided in the Penal Code; increasing the punishment for
8 sabotage and sedition; imposing a civil penalty.

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

10 ARTICLE 1. PURPOSE

11 SECTION 1.01. PURPOSE. The purpose of this Act is to
12 implement the recommendations of the commission created by Section
13 29, Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
14 Session, 2015, and to authorize additional review of the penal laws
15 described by Section 2.01(a) of this Act.

16 ARTICLE 2. COMMISSION TO STUDY CERTAIN PENAL LAWS

17 SECTION 2.01. COMMISSION TO STUDY CERTAIN PENAL LAWS.

18 (a) A commission is created to study and review all penal laws of
19 this state other than criminal offenses:

- 20 (1) under the Penal Code;
- 21 (2) under Chapter 481, Health and Safety Code; or
- 22 (3) related to the operation of a motor vehicle.

23 (b) The commission shall:

- 24 (1) evaluate all laws described by Subsection (a) of

1 this section;

2 (2) make recommendations to the legislature regarding
3 the repeal or amendment of laws that are identified as being
4 unnecessary, unclear, duplicative, overly broad, or otherwise
5 insufficient to serve the intended purpose of the law, including
6 the laws identified by the commission created by Section 29,
7 Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
8 Session, 2015, as requiring additional review; and

9 (3) evaluate the recommendations made by the
10 commission created by Section 29, Chapter 1251 (H.B. 1396), Acts of
11 the 84th Legislature, Regular Session, 2015.

12 (c) The commission is composed of nine members appointed as
13 follows:

14 (1) two members appointed by the governor;

15 (2) two members appointed by the lieutenant governor;

16 (3) two members appointed by the speaker of the house
17 of representatives;

18 (4) two members appointed by the chief justice of the
19 Supreme Court of Texas; and

20 (5) one member appointed by the presiding judge of the
21 Texas Court of Criminal Appeals.

22 (d) The officials making appointments to the commission
23 under Subsection (c) of this section shall ensure that the
24 membership of the commission includes representatives of all areas
25 of the criminal justice system, including prosecutors, defense
26 attorneys, judges, legal scholars, and relevant business
27 interests.

1 (e) The governor shall designate one member of the
2 commission to serve as the presiding officer of the commission.

3 (f) A member of the commission is not entitled to
4 compensation or reimbursement of expenses.

5 (g) The commission shall meet at the call of the presiding
6 officer.

7 (h) Not later than November 1, 2018, the commission shall
8 report the commission's findings and recommendations to the
9 governor, the lieutenant governor, the speaker of the house of
10 representatives, the Supreme Court of Texas, the Texas Court of
11 Criminal Appeals, and the standing committees of the house of
12 representatives and the senate with primary jurisdiction over
13 criminal justice. The commission shall include in its
14 recommendations any specific statutes that the commission
15 recommends repealing or amending.

16 SECTION 2.02. APPOINTMENT OF MEMBERS. Not later than the
17 60th day after the effective date of this Act, the governor, the
18 lieutenant governor, the speaker of the house of representatives,
19 the chief justice of the Supreme Court of Texas, and the presiding
20 judge of the Texas Court of Criminal Appeals shall appoint the
21 members of the commission created under this article.

22 SECTION 2.03. ABOLITION OF COMMISSION. The commission is
23 abolished and this article expires December 31, 2018.

24 ARTICLE 3. MISCELLANEOUS AMENDMENTS RELATING TO CRIMINAL OFFENSES

25 SECTION 3.01. Section 17.46(b), Business & Commerce Code,
26 as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts
27 of the 84th Legislature, Regular Session, 2015, is reenacted and

1 amended to read as follows:

2 (b) Except as provided in Subsection (d) of this section,
3 the term "false, misleading, or deceptive acts or practices"
4 includes, but is not limited to, the following acts:

5 (1) passing off goods or services as those of another;

6 (2) causing confusion or misunderstanding as to the
7 source, sponsorship, approval, or certification of goods or
8 services;

9 (3) causing confusion or misunderstanding as to
10 affiliation, connection, or association with, or certification by,
11 another;

12 (4) using deceptive representations or designations
13 of geographic origin in connection with goods or services;

14 (5) representing that goods or services have
15 sponsorship, approval, characteristics, ingredients, uses,
16 benefits, or quantities which they do not have or that a person has
17 a sponsorship, approval, status, affiliation, or connection which
18 the person does not;

19 (6) representing that goods are original or new if
20 they are deteriorated, reconditioned, reclaimed, used, or
21 secondhand;

22 (7) representing that goods or services are of a
23 particular standard, quality, or grade, or that goods are of a
24 particular style or model, if they are of another;

25 (8) disparaging the goods, services, or business of
26 another by false or misleading representation of facts;

27 (9) advertising goods or services with intent not to

1 sell them as advertised;

2 (10) advertising goods or services with intent not to
3 supply a reasonable expectable public demand, unless the
4 advertisements disclosed a limitation of quantity;

5 (11) making false or misleading statements of fact
6 concerning the reasons for, existence of, or amount of price
7 reductions;

8 (12) representing that an agreement confers or
9 involves rights, remedies, or obligations which it does not have or
10 involve, or which are prohibited by law;

11 (13) knowingly making false or misleading statements
12 of fact concerning the need for parts, replacement, or repair
13 service;

14 (14) misrepresenting the authority of a salesman,
15 representative or agent to negotiate the final terms of a consumer
16 transaction;

17 (15) basing a charge for the repair of any item in
18 whole or in part on a guaranty or warranty instead of on the value of
19 the actual repairs made or work to be performed on the item without
20 stating separately the charges for the work and the charge for the
21 warranty or guaranty, if any;

22 (16) disconnecting, turning back, or resetting the
23 odometer of any motor vehicle so as to reduce the number of miles
24 indicated on the odometer gauge;

25 (17) advertising of any sale by fraudulently
26 representing that a person is going out of business;

27 (18) advertising, selling, or distributing a card

1 which purports to be a prescription drug identification card issued
2 under Section 4151.152, Insurance Code, in accordance with rules
3 adopted by the commissioner of insurance, which offers a discount
4 on the purchase of health care goods or services from a third party
5 provider, and which is not evidence of insurance coverage, unless:

6 (A) the discount is authorized under an agreement
7 between the seller of the card and the provider of those goods and
8 services or the discount or card is offered to members of the
9 seller;

10 (B) the seller does not represent that the card
11 provides insurance coverage of any kind; and

12 (C) the discount is not false, misleading, or
13 deceptive;

14 (19) using or employing a chain referral sales plan in
15 connection with the sale or offer to sell of goods, merchandise, or
16 anything of value, which uses the sales technique, plan,
17 arrangement, or agreement in which the buyer or prospective buyer
18 is offered the opportunity to purchase merchandise or goods and in
19 connection with the purchase receives the seller's promise or
20 representation that the buyer shall have the right to receive
21 compensation or consideration in any form for furnishing to the
22 seller the names of other prospective buyers if receipt of the
23 compensation or consideration is contingent upon the occurrence of
24 an event subsequent to the time the buyer purchases the merchandise
25 or goods;

26 (20) representing that a guaranty or warranty confers
27 or involves rights or remedies which it does not have or involve,

1 provided, however, that nothing in this subchapter shall be
2 construed to expand the implied warranty of merchantability as
3 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
4 2A.216 to involve obligations in excess of those which are
5 appropriate to the goods;

6 (21) promoting a pyramid promotional scheme, as
7 defined by Section 32.55, Penal Code [~~Section 17.461~~];

8 (22) representing that work or services have been
9 performed on, or parts replaced in, goods when the work or services
10 were not performed or the parts replaced;

11 (23) filing suit founded upon a written contractual
12 obligation of and signed by the defendant to pay money arising out
13 of or based on a consumer transaction for goods, services, loans, or
14 extensions of credit intended primarily for personal, family,
15 household, or agricultural use in any county other than in the
16 county in which the defendant resides at the time of the
17 commencement of the action or in the county in which the defendant
18 in fact signed the contract; provided, however, that a violation of
19 this subsection shall not occur where it is shown by the person
20 filing such suit that the person neither knew or had reason to know
21 that the county in which such suit was filed was neither the county
22 in which the defendant resides at the commencement of the suit nor
23 the county in which the defendant in fact signed the contract;

24 (24) failing to disclose information concerning goods
25 or services which was known at the time of the transaction if such
26 failure to disclose such information was intended to induce the
27 consumer into a transaction into which the consumer would not have

1 entered had the information been disclosed;

2 (25) using the term "corporation," "incorporated," or
3 an abbreviation of either of those terms in the name of a business
4 entity that is not incorporated under the laws of this state or
5 another jurisdiction;

6 (26) selling, offering to sell, or illegally promoting
7 an annuity contract under Chapter 22, Acts of the 57th Legislature,
8 3rd Called Session, 1962 (Article [6228a-5](#), Vernon's Texas Civil
9 Statutes), with the intent that the annuity contract will be the
10 subject of a salary reduction agreement, as defined by that Act, if
11 the annuity contract is not an eligible qualified investment under
12 that Act or is not registered with the Teacher Retirement System of
13 Texas as required by Section 8A of that Act;

14 (27) taking advantage of a disaster declared by the
15 governor under Chapter [418](#), Government Code, by:

16 (A) selling or leasing fuel, food, medicine, or
17 another necessity at an exorbitant or excessive price; or

18 (B) demanding an exorbitant or excessive price in
19 connection with the sale or lease of fuel, food, medicine, or
20 another necessity;

21 (28) using the translation into a foreign language of
22 a title or other word, including "attorney," "lawyer," "licensed,"
23 "notary," and "notary public," in any written or electronic
24 material, including an advertisement, a business card, a
25 letterhead, stationery, a website, or an online video, in reference
26 to a person who is not an attorney in order to imply that the person
27 is authorized to practice law in the United States;

1 (29) [~~(28)~~] delivering or distributing a solicitation
2 in connection with a good or service that:

3 (A) represents that the solicitation is sent on
4 behalf of a governmental entity when it is not; or

5 (B) resembles a governmental notice or form that
6 represents or implies that a criminal penalty may be imposed if the
7 recipient does not remit payment for the good or service;

8 (30) [~~(29)~~] delivering or distributing a solicitation
9 in connection with a good or service that resembles a check or other
10 negotiable instrument or invoice, unless the portion of the
11 solicitation that resembles a check or other negotiable instrument
12 or invoice includes the following notice, clearly and conspicuously
13 printed in at least 18-point type:

14 "SPECIMEN-NON-NEGOTIABLE";

15 (31) [~~(30)~~] in the production, sale, distribution, or
16 promotion of a synthetic substance that produces and is intended to
17 produce an effect when consumed or ingested similar to, or in excess
18 of, the effect of a controlled substance or controlled substance
19 analogue, as those terms are defined by Section [481.002](#), Health and
20 Safety Code:

21 (A) making a deceptive representation or
22 designation about the synthetic substance; or

23 (B) causing confusion or misunderstanding as to
24 the effects the synthetic substance causes when consumed or
25 ingested; or

26 (32) [~~(31)~~] a licensed public insurance adjuster
27 directly or indirectly soliciting employment, as defined by Section

1 38.01, Penal Code, for an attorney, or a licensed public insurance
2 adjuster entering into a contract with an insured for the primary
3 purpose of referring the insured to an attorney without the intent
4 to actually perform the services customarily provided by a licensed
5 public insurance adjuster, provided that this subdivision may not
6 be construed to prohibit a licensed public insurance adjuster from
7 recommending a particular attorney to an insured.

8 SECTION 3.02. Section 17.461, Business & Commerce Code, is
9 transferred to Subchapter D, Chapter 32, Penal Code, and
10 redesignated as Section 32.55, Penal Code, to read as follows:

11 Sec. 32.55 [~~17.461~~]. PYRAMID PROMOTIONAL SCHEME. (a) In
12 this section:

13 (1) "Compensation" means payment of money, a financial
14 benefit, or another thing of value. The term does not include
15 payment based on sale of a product to a person, including a
16 participant, who purchases the product for actual use or
17 consumption.

18 (2) "Consideration" means the payment of cash or the
19 purchase of a product. The term does not include:

20 (A) a purchase of a product furnished at cost to
21 be used in making a sale and not for resale;

22 (B) a purchase of a product subject to a
23 repurchase agreement that complies with Subsection (b); or

24 (C) time and effort spent in pursuit of a sale or
25 in a recruiting activity.

26 (3) "Participate" means to contribute money into a
27 pyramid promotional scheme without promoting, organizing, or

1 operating the scheme.

2 (4) "Product" means a good, a service, or intangible
3 property of any kind.

4 (5) "Promoting a pyramid promotional scheme" means:

5 (A) inducing or attempting to induce one or more
6 other persons to participate in a pyramid promotional scheme; or

7 (B) assisting another person in inducing or
8 attempting to induce one or more other persons to participate in a
9 pyramid promotional scheme, including by providing references.

10 (6) "Pyramid promotional scheme" means a plan or
11 operation by which a person gives consideration for the opportunity
12 to receive compensation that is derived primarily from a person's
13 introduction of other persons to participate in the plan or
14 operation rather than from the sale of a product by a person
15 introduced into the plan or operation.

16 (b) To qualify as a repurchase agreement for the purposes of
17 Subsection (a)(2)(B), an agreement must be an enforceable agreement
18 by the seller to repurchase, on written request of the purchaser and
19 not later than the first anniversary of the purchaser's date of
20 purchase, all unencumbered products that are in an unused,
21 commercially resalable condition at a price not less than 90
22 percent of the amount actually paid by the purchaser for the
23 products being returned, less any consideration received by the
24 purchaser for purchase of the products being returned. A product
25 that is no longer marketed by the seller is considered resalable if
26 the product is otherwise in an unused, commercially resalable
27 condition and is returned to the seller not later than the first

1 anniversary of the purchaser's date of purchase, except that the
2 product is not considered resalable if before the purchaser
3 purchased the product it was clearly disclosed to the purchaser
4 that the product was sold as a nonreturnable, discontinued,
5 seasonal, or special promotion item.

6 (c) A person commits an offense if the person contrives,
7 prepares, establishes, operates, advertises, sells, or promotes a
8 pyramid promotional scheme. An offense under this subsection is a
9 state jail felony.

10 (d) It is not a defense to prosecution for an offense under
11 this section that the pyramid promotional scheme involved both a
12 franchise to sell a product and the authority to sell additional
13 franchises if the emphasis of the scheme is on the sale of
14 additional franchises.

15 SECTION 3.03. Sections 522.001 and 522.002, Business &
16 Commerce Code, are transferred to Subchapter D, Chapter 32, Penal
17 Code, redesignated as Section 32.511, Penal Code, and amended to
18 read as follows:

19 Sec. 32.511 [~~522.001~~]. IDENTITY THEFT BY ELECTRONIC DEVICE
20 [~~DEFINITIONS~~]. (a) In this section [~~chapter~~]:

21 (1) "Payment card" means a credit card, debit card,
22 check card, or other card that is issued to an authorized user to
23 purchase or obtain goods, services, money, or any other thing of
24 value.

25 (2) "Re-encoder" means an electronic device that can
26 be used to transfer encoded information from a magnetic strip on a
27 payment card onto the magnetic strip of a different payment card.

1 (3) "Scanning device" means an electronic device used
2 to access, read, scan, or store information encoded on the magnetic
3 strip of a payment card.

4 **(b)** [~~Sec. 522.002. OFFENSE, PENALTY.~~ ~~(a)~~] A person
5 commits an offense if the person uses a scanning device or
6 re-encoder to access, read, scan, store, or transfer information
7 encoded on the magnetic strip of a payment card without the consent
8 of an authorized user of the payment card and with intent to harm or
9 defraud another.

10 **(c)** [~~(b)~~] An offense under this section is a Class B
11 misdemeanor, except that the offense is a state jail felony if the
12 information accessed, read, scanned, stored, or transferred was
13 protected health information as defined by the Health Insurance
14 Portability and Accountability Act and Privacy Standards, as
15 defined by Section 181.001, Health and Safety Code.

16 **(d)** [~~(c)~~] If conduct that constitutes an offense under this
17 section also constitutes an offense under any other law, the actor
18 may be prosecuted under this section or the other law.

19 SECTION 3.04. Article 18.18(g), Code of Criminal Procedure,
20 is amended to read as follows:

21 (g) For purposes of this article:

22 (1) "criminal instrument" has the meaning defined in
23 the Penal Code;

24 (2) "gambling device or equipment, altered gambling
25 equipment or gambling paraphernalia" has the meaning defined in the
26 Penal Code;

27 (3) "prohibited weapon" has the meaning defined in the

1 Penal Code;

2 (4) "dog-fighting equipment" means:

3 (A) equipment used for training or handling a
4 fighting dog, including a harness, treadmill, cage, decoy, pen,
5 house for keeping a fighting dog, feeding apparatus, or training
6 pen;

7 (B) equipment used for transporting a fighting
8 dog, including any automobile, or other vehicle, and its
9 appurtenances which are intended to be used as a vehicle for
10 transporting a fighting dog;

11 (C) equipment used to promote or advertise an
12 exhibition of dog fighting, including a printing press or similar
13 equipment, paper, ink, or photography equipment; or

14 (D) a dog trained, being trained, or intended to
15 be used to fight with another dog;

16 (5) "obscene device" and "obscene" have the meanings
17 assigned by Section 43.21, Penal Code;

18 (6) "re-encoder" has the meaning assigned by Section
19 32.511, Penal [~~522.001, Business & Commerce~~] Code;

20 (7) "scanning device" has the meaning assigned by
21 Section 32.511, Penal [~~522.001, Business & Commerce~~] Code; and

22 (8) "obscene material" and "child pornography"
23 include digital images and the media and equipment on which those
24 images are stored.

25 SECTION 3.05. Article 59.01(2), Code of Criminal Procedure,
26 is amended to read as follows:

27 (2) "Contraband" means property of any nature,

1 including real, personal, tangible, or intangible, that is:

2 (A) used in the commission of:

3 (i) any first or second degree felony under
4 the Penal Code;

5 (ii) any felony under Section 15.031(b),
6 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
7 33A, or 35, Penal Code;

8 (iii) any felony under The Securities Act
9 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

10 (iv) any offense under Chapter 49, Penal
11 Code, that is punishable as a felony of the third degree or state
12 jail felony, if the defendant has been previously convicted three
13 times of an offense under that chapter;

14 (B) used or intended to be used in the commission
15 of:

16 (i) any felony under Chapter 481, Health
17 and Safety Code (Texas Controlled Substances Act);

18 (ii) any felony under Chapter 483, Health
19 and Safety Code;

20 (iii) a felony under Chapter 151, Finance
21 Code;

22 (iv) any felony under Chapter 34, Penal
23 Code;

24 (v) a Class A misdemeanor under Subchapter
25 B, Chapter 365, Health and Safety Code, if the defendant has been
26 previously convicted twice of an offense under that subchapter;

27 (vi) any felony under Chapter 32, Human

1 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
2 involves the state Medicaid program;

3 (vii) a Class B misdemeanor under Section
4 32.511, Penal [~~Chapter 522, Business & Commerce~~] Code;

5 (viii) a Class A misdemeanor under Section
6 306.051, Business & Commerce Code;

7 (ix) any offense under Section 42.10, Penal
8 Code;

9 (x) any offense under Section 46.06(a)(1)
10 or 46.14, Penal Code;

11 (xi) any offense under Chapter 71, Penal
12 Code;

13 (xii) any offense under Section 20.05 or
14 20.06, Penal Code; or

15 (xiii) an offense under Section 326.002,
16 Business & Commerce Code;

17 (C) the proceeds gained from the commission of a
18 felony listed in Paragraph (A) or (B) of this subdivision, a
19 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of
20 this subdivision, or a crime of violence;

21 (D) acquired with proceeds gained from the
22 commission of a felony listed in Paragraph (A) or (B) of this
23 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
24 or (xi) of this subdivision, or a crime of violence;

25 (E) used to facilitate or intended to be used to
26 facilitate the commission of a felony under Section 15.031 or
27 43.25, Penal Code; or

1 (F) used to facilitate or intended to be used to
2 facilitate the commission of a felony under Section 20A.02 or
3 Chapter 43, Penal Code.

4 SECTION 3.06. Sections 557.001 and 557.011, Government
5 Code, are transferred to Chapter 40, Penal Code, as added by this
6 Act, redesignated as Sections 40.01 and 40.02, Penal Code,
7 respectively, and amended to read as follows:

8 Sec. 40.01 [~~557.001~~]. SEDITION. (a) A person commits an
9 offense if the person knowingly:

10 (1) commits, attempts to commit, or conspires with one
11 or more persons to commit an act intended to overthrow, destroy, or
12 alter the constitutional form of government of this state or of any
13 political subdivision of this state by force or violence;

14 (2) under circumstances that constitute a clear and
15 present danger to the security of this state or a political
16 subdivision of this state, advocates, advises, or teaches or
17 conspires with one or more persons to advocate, advise, or teach a
18 person to commit or attempt to commit an act described in
19 Subdivision (1); or

20 (3) participates, with knowledge of the nature of the
21 organization, in the management of an organization that engages in
22 or attempts to engage in an act intended to overthrow, destroy, or
23 alter the constitutional form of government of this state or of any
24 political subdivision of this state by force or violence.

25 (b) An offense under this section is a felony of the second
26 degree [~~punishable by:~~

27 [~~(1) a fine not to exceed \$20,000,~~

1 ~~[(2) confinement in the Texas Department of Criminal~~
2 ~~Justice for a term of not less than one year or more than 20 years,~~
3 ~~or~~
4 ~~[(3) both fine and imprisonment].~~

5 (c) A person convicted of an offense under this section may
6 not receive community supervision under Chapter 42A, Code of
7 Criminal Procedure.

8 Sec. 40.02 [~~557.011~~]. SABOTAGE. (a) A person commits an
9 offense if the person, with the intent to injure the United States,
10 this state, or any facility or property used for national defense
11 sabotages or attempts to sabotage any property or facility used or
12 to be used for national defense.

13 (b) An offense under this section is a felony of the second
14 degree [~~punishable by confinement in the Texas Department of~~
15 ~~Criminal Justice for a term of not less than two years or more than~~
16 ~~20 years~~].

17 (c) If conduct constituting an offense under this section
18 also constitutes an offense under another provision of law, the
19 actor may be prosecuted under both sections.

20 (d) In this section, "sabotage" means to wilfully and
21 maliciously damage or destroy property.

22 SECTION 3.07. Section 557.002, Government Code, is amended
23 to read as follows:

24 Sec. 557.002. DISQUALIFICATION. A person who is finally
25 convicted of an offense under Section 40.01, Penal Code, [~~557.001~~]
26 may not hold office or a position of profit, trust, or employment
27 with the state or any political subdivision of the state.

1 SECTION 3.08. Section 3101.010(b), Government Code, is
2 amended to read as follows:

3 (b) An offense under this section is a misdemeanor and on
4 conviction is punishable by[+]

5 [~~(1)~~] a fine of not less than \$5 or more than \$300[+]

6 [~~(2) confinement in the county jail for a term not to
7 exceed three months; or~~

8 [~~(3) both a fine and confinement~~].

9 SECTION 3.09. Section 615.002(e), Local Government Code, is
10 amended to read as follows:

11 (e) A person commits an offense if the person violates a
12 parking rule adopted under this section. An offense under this
13 subsection is a Class C misdemeanor [~~punishable by a fine of not
14 less than \$1 nor more than \$20~~].

15 SECTION 3.10. Section 11.074(b), Natural Resources Code, is
16 amended to read as follows:

17 (b) Any owner of stock or a his manager, agent, employee,
18 or servant of the owner who fences, uses, occupies, or appropriates
19 by herding or line-riding any portion of the land covered by
20 Subsection (a) [~~of this section~~] without a lease for the land
21 commits an offense. An offense under this section is a Class C
22 misdemeanor [~~, on conviction, shall be fined not less than \$100 nor
23 more than \$1,000 and confined in the county jail for not less than
24 three months nor more than two years~~]. Each day for which a
25 violation continues constitutes a separate offense.

26 SECTION 3.11. Section 88.134(b), Natural Resources Code, is
27 amended to read as follows:

1 (b) A person who violates any [~~other~~] provision of this
2 chapter other than those covered by Subsection (a), a person who
3 fails to comply with any of the other terms of this chapter, a
4 person who fails to comply with the terms of a rule or order adopted
5 by the governmental agency under the terms of this chapter, or a
6 person who violates any of the rules or orders of the governmental
7 agency adopted under the provisions of this chapter commits an
8 offense. An offense under this subsection is a felony of the third
9 degree [~~on conviction is considered guilty of a felony and on~~
10 ~~conviction shall be punished by imprisonment in the Texas~~
11 ~~Department of Criminal Justice for a term of not less than two nor~~
12 ~~more than four years~~].

13 SECTION 3.12. Section 114.102(b), Natural Resources Code,
14 is amended to read as follows:

15 (b) An offense under this section is a Class A misdemeanor
16 [~~felony of the third degree~~].

17 SECTION 3.13. Section 264.151(a), Occupations Code, is
18 amended to read as follows:

19 (a) A person commits an offense if the person violates
20 Section 256.001. An offense under this subsection is a felony of
21 the third degree. [~~Each day of a violation is a separate offense.~~]

22 SECTION 3.14. Section 266.303, Occupations Code, is amended
23 by amending Subsection (b) and adding Subsection (b-1) to read as
24 follows:

25 (b) An offense for a violation of Section 266.151 is a Class
26 A misdemeanor, except that the offense is a felony of the third
27 degree if it is shown on the trial of the offense that the defendant

1 has previously been convicted of an offense for a violation of
2 Section 266.151.

3 (b-1) An offense for a violation of [✗] Section 266.301(b)
4 is a Class A misdemeanor, except that the offense is a felony of the
5 third degree if it is shown on the trial of the offense that the
6 defendant has previously been convicted of an offense for a
7 violation of Section 266.301(b).

8 SECTION 3.15. Section 1701.553(b), Occupations Code, is
9 amended to read as follows:

10 (b) An offense under Subsection (a) is a Class A misdemeanor
11 [state jail felony].

12 SECTION 3.16. Subchapter E, Chapter 1802, Occupations Code,
13 is amended by adding Section 1802.2025 to read as follows:

14 Sec. 1802.2025. FRIVOLOUS CLAIMS; CIVIL PENALTY. (a) A
15 person may not, for personal benefit or to harm another:

16 (1) institute a claim under this chapter in which the
17 person knows the person has no interest; or

18 (2) institute a frivolous suit or claim that the
19 person knows is false.

20 (b) A person who violates Subsection (a) is subject to a
21 civil penalty under Section 51.352.

22 SECTION 3.17. Section 2155.002(d), Occupations Code, is
23 amended to read as follows:

24 (d) An offense under Subsection (a) or (c) is a misdemeanor
25 punishable by[+]

26 [~~1~~] a fine of not less than \$25 or more than \$100[+]

27 [~~2~~] ~~confinement in jail for a term not to exceed 30~~

1 ~~days, or~~

2 ~~[(3) both a fine and confinement].~~

3 SECTION 3.18. Section [2156.006](#), Occupations Code, is
4 amended to read as follows:

5 Sec. 2156.006. FORFEITURE OF LEASE. A theater's lessee or a
6 lessee's assigns forfeit the lease and any rights and privileges
7 under the lease if the person[+]

8 ~~[(1)]~~ does not comply with the law governing
9 theaters[~~, or~~

10 ~~[(2) is convicted of an offense under Section~~
11 ~~[2156.005](#)].~~

12 SECTION 3.19. Section [32.153\(a\)](#), Parks and Wildlife Code,
13 is amended to read as follows:

14 (a) A person commits an offense if the person violates:

15 (1) Section [32.051](#);

16 (2) ~~[Section [32.053\(b\)](#)],~~

17 ~~[(3)]~~ Section [32.056](#);

18 (3) ~~[(4) Section [32.057\(d\)](#)],~~

19 ~~[(5)]~~ Section [32.101](#);

20 (4) ~~[(6)]~~ Section [32.104](#);

21 (5) ~~[(7)]~~ Section [32.105](#);

22 (6) ~~[(8)]~~ Section [32.106](#);

23 (7) ~~[(9)]~~ Section [32.107](#); or

24 (8) ~~[(10)]~~ Section [32.108](#).

25 SECTION 3.20. Section [62.013](#), Parks and Wildlife Code, is
26 amended to read as follows:

27 Sec. 62.013. PENALTIES. (a) Except as provided by

1 Subsections (b), (b-1), and (c) of this section, a person who
2 violates a provision of this subchapter commits an offense that is a
3 Class C Parks and Wildlife Code misdemeanor.

4 (b) A person who violates Section 62.003, 62.004, [~~62.005~~],
5 62.0065, 62.011(c), or 350.001 or a rule adopted under Section
6 62.0065 commits an offense that is a Class A Parks and Wildlife Code
7 misdemeanor, unless it is shown at the trial of the defendant for a
8 violation of that section or rule, as appropriate, that the
9 defendant has been convicted one or more times before the trial date
10 of a violation of that section or rule, as appropriate, in which
11 case the offense is a Parks and Wildlife Code state jail felony.

12 (b-1) A person who violates Section 62.005 commits an
13 offense that is a:

14 (1) Class C Parks and Wildlife Code misdemeanor if the
15 person commits the offense recklessly;

16 (2) Class A Parks and Wildlife Code misdemeanor if the
17 person intentionally or knowingly commits the offense; or

18 (3) Parks and Wildlife Code state jail felony if it is
19 shown at the trial of the defendant for a violation of that section
20 that the defendant has been convicted one or more times before the
21 trial date of a violation of that section.

22 (c) In addition to the punishments provided in Subsections
23 (a), [~~and~~] (b), and (b-1), a person who violates Section 62.003,
24 62.004, 62.005, 62.0065, 62.011(c), or 350.001 or a rule adopted
25 under Section 62.0065 is punishable by the revocation or suspension
26 under Section 12.5015 of hunting and fishing licenses and permits.

27 SECTION 3.21. Section 76.040, Parks and Wildlife Code, is

1 amended by amending Subsection (b) and adding Subsection (b-1) to
2 read as follows:

3 (b) A person who violates Section 76.037 [~~or Section 76.038~~
4 ~~of this code~~] commits an offense that is a Class B Parks and
5 Wildlife Code misdemeanor.

6 (b-1) A person who violates Section 76.038 commits an
7 offense that is a:

8 (1) Class C Parks and Wildlife Code misdemeanor if the
9 person commits the offense recklessly; or

10 (2) Class B Parks and Wildlife Code misdemeanor if the
11 person intentionally or knowingly commits the offense.

12 SECTION 3.22. Section 76.118, Parks and Wildlife Code, is
13 amended by amending Subsections (a), (b), and (c) and adding
14 Subsection (a-1) to read as follows:

15 (a) Except as provided in Subsections (a-1), (b), and (c) of
16 this section, a person who violates a provision of this subchapter
17 or a regulation of the commission issued under this subchapter
18 commits an offense that is a Class C Parks and Wildlife Code
19 misdemeanor.

20 (a-1) A person who violates Section 76.101 or 76.109 or a
21 regulation of the commission issued under one of those sections
22 commits an offense that is a:

23 (1) Class C Parks and Wildlife Code misdemeanor if the
24 person commits the offense recklessly; or

25 (2) Class B Parks and Wildlife Code misdemeanor if the
26 person intentionally or knowingly commits the offense.

27 (b) A person who violates Section [~~76.101,~~] 76.107 [~~, or~~

1 ~~76.109~~] or a regulation of the commission issued under that section
2 ~~[one of those sections]~~ commits an offense that is a Class B Parks
3 and Wildlife Code misdemeanor.

4 (c) A person who violates Section 76.116, or at the same
5 time violates Sections 76.109 and 76.116, commits an offense that
6 is a:

7 (1) Class B Parks and Wildlife Code misdemeanor if the
8 person commits the offense recklessly; or

9 (2) Class A Parks and Wildlife Code misdemeanor if the
10 person intentionally or knowingly commits the offense.

11 SECTION 3.23. Section 77.061(b), Parks and Wildlife Code,
12 is amended to read as follows:

13 (b) Notwithstanding the provisions of Subchapter E, Chapter
14 12, of this code, a person who violates Subdivision (1) of
15 Subsection (a) of this section or Section 77.024 of this code
16 commits an offense that is a:

17 (1) Class C Parks and Wildlife Code misdemeanor if the
18 person commits the offense recklessly; or

19 (2) Class B Parks and Wildlife Code misdemeanor if the
20 person intentionally or knowingly commits the offense ~~[and on~~
21 ~~conviction is punishable by a fine of not less than \$2,500 nor more~~
22 ~~than \$5,000, by confinement in the county jail for not less than six~~
23 ~~months nor more than one year, or by both].~~

24 SECTION 3.24. Section 19.03(a), Penal Code, is amended to
25 read as follows:

26 (a) A person commits an offense if the person commits murder
27 as defined under Section 19.02(b)(1) and:

1 (1) the person murders a peace officer or fireman who
2 is acting in the lawful discharge of an official duty and who the
3 person knows is a peace officer or fireman;

4 (2) the person intentionally commits the murder in the
5 course of committing or attempting to commit kidnapping, burglary,
6 robbery, aggravated sexual assault, arson, obstruction or
7 retaliation, sabotage, or terroristic threat under Section
8 [22.07](#)(a)(1), (3), (4), (5), or (6);

9 (3) the person commits the murder for remuneration or
10 the promise of remuneration or employs another to commit the murder
11 for remuneration or the promise of remuneration;

12 (4) the person commits the murder while escaping or
13 attempting to escape from a penal institution;

14 (5) the person, while incarcerated in a penal
15 institution, murders another:

16 (A) who is employed in the operation of the penal
17 institution; or

18 (B) with the intent to establish, maintain, or
19 participate in a combination or in the profits of a combination;

20 (6) the person:

21 (A) while incarcerated for an offense under this
22 section or Section [19.02](#), murders another; or

23 (B) while serving a sentence of life imprisonment
24 or a term of 99 years for an offense under Section [20.04](#), [22.021](#), or
25 [29.03](#), murders another;

26 (7) the person murders more than one person:

27 (A) during the same criminal transaction; or

1 (B) during different criminal transactions but
2 the murders are committed pursuant to the same scheme or course of
3 conduct;

4 (8) the person murders an individual under 10 years of
5 age; or

6 (9) the person murders another person in retaliation
7 for or on account of the service or status of the other person as a
8 judge or justice of the supreme court, the court of criminal
9 appeals, a court of appeals, a district court, a criminal district
10 court, a constitutional county court, a statutory county court, a
11 justice court, or a municipal court.

12 SECTION 3.25. Section 37.10(c)(2), Penal Code, is amended
13 to read as follows:

14 (2) An offense under this section is a felony of the
15 third degree if it is shown on the trial of the offense that the
16 governmental record was:

17 (A) a public school record, report, or assessment
18 instrument required under Chapter 39, Education Code, a public
19 school record, form, report, or budget required under Chapter 42,
20 Education Code, or a rule adopted under that chapter, data reported
21 for a school district or open-enrollment charter school to the
22 Texas Education Agency through the Public Education Information
23 Management System (PEIMS) described by Section 42.006, Education
24 Code, under a law or rule requiring that reporting, or a license,
25 certificate, permit, seal, title, letter of patent, or similar
26 document issued by government, by another state, or by the United
27 States, unless the actor's intent is to defraud or harm another, in

1 which event the offense is a felony of the second degree;

2 (B) a written report of a medical, chemical,
3 toxicological, ballistic, or other expert examination or test
4 performed on physical evidence for the purpose of determining the
5 connection or relevance of the evidence to a criminal action;

6 (C) a written report of the certification,
7 inspection, or maintenance record of an instrument, apparatus,
8 implement, machine, or other similar device used in the course of an
9 examination or test performed on physical evidence for the purpose
10 of determining the connection or relevance of the evidence to a
11 criminal action; or

12 (D) a search warrant issued by a magistrate.

13 SECTION 3.26. Title 8, Penal Code, is amended by adding
14 Chapter 40, and a heading is added to that chapter to read as
15 follows:

16 CHAPTER 40. SEDITION AND SABOTAGE

17 SECTION 3.27. Section 154.517, Tax Code, is amended to read
18 as follows:

19 Sec. 154.517. FELONY OR MISDEMEANOR. (a) An offense under
20 Section [Sections] 154.511, 154.512, 154.514, 154.515, or
21 [through] 154.516 is a felony of the third degree.

22 (b) An offense under Section 154.513 is a Class A
23 misdemeanor unless it is shown on the trial of the offense that the
24 person has been previously convicted of an offense under that
25 section, in which event the offense is a felony of the third degree.

26 SECTION 3.28. Section 155.208, Tax Code, is amended to read
27 as follows:

1 Sec. 155.208. MISDEMEANOR. (a) An offense under Section
2 155.202, 155.204, 155.205, 155.206, or 155.207 [~~Sections~~
3 ~~155.202-155.207~~] is a Class A misdemeanor.

4 (b) An offense under Section 155.203 is a Class C
5 misdemeanor unless it is shown on the trial of the offense that the
6 person has been previously convicted of an offense under that
7 section, in which event the offense is a Class A misdemeanor.

8 SECTION 3.29. Section 155.213, Tax Code, is amended to read
9 as follows:

10 Sec. 155.213. FELONY OR MISDEMEANOR. (a) An offense under
11 Section 155.210 or 155.212 [~~Sections 155.209-155.212~~] is a felony
12 of the third degree.

13 (b) An offense under Section 155.209 is a Class A
14 misdemeanor unless it is shown on the trial of the offense that the
15 person has been previously convicted of an offense under that
16 section, in which event the offense is a felony of the third degree.

17 (c) An offense under Section 155.211 is a Class A
18 misdemeanor unless it is shown on the trial of the offense that the
19 person has been previously convicted of an offense under that
20 section, in which event the offense is a felony of the third degree.

21 SECTION 3.30. Section 15.030(c), Utilities Code, is amended
22 to read as follows:

23 (c) An offense under this section is a Class A misdemeanor
24 [~~felony of the third degree~~].

25 SECTION 3.31. Section 105.024(b), Utilities Code, is
26 amended to read as follows:

27 (b) An offense under this section is a Class A misdemeanor

1 [~~felony of the third degree~~].

2 SECTION 3.32. The following laws are repealed:

3 (1) Section 101.64, Alcoholic Beverage Code;

4 (2) Sections 17.22, 17.30, 17.31, and 204.005,
5 Business & Commerce Code;

6 (3) Chapter 504, Business & Commerce Code;

7 (4) the heading to Chapter 522, Business & Commerce
8 Code;

9 (5) Section 44.051, Education Code;

10 (6) Sections 59.002, 89.101, 119.202, 122.251, and
11 199.001, Finance Code;

12 (7) the heading to Subchapter B, Chapter 557,
13 Government Code;

14 (8) Sections 557.012 and 557.013, Government Code;

15 (9) Sections 52.021 and 52.022, Labor Code;

16 (10) Sections 205.401(b), 1802.302, 1805.103,
17 2156.004, 2156.005, and 2158.003, Occupations Code;

18 (11) Sections 32.053(b) and 32.057(d), Parks and
19 Wildlife Code;

20 (12) Articles 4005a, 4006a, 4006b, 4015d, 4015e, and
21 5196b, Revised Statutes;

22 (13) Chapter 281 (H.B. 2680), Acts of the 73rd
23 Legislature, Regular Session, 1993 (Article 4413(47e-1), Vernon's
24 Texas Civil Statutes); and

25 (14) Chapter 487 (H.B. 376), Acts of the 56th
26 Legislature, Regular Session, 1959 (Article 9010, Vernon's Texas
27 Civil Statutes).

1 ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE

2 SECTION 4.01. The changes in law made by this Act apply only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 4.02. To the extent of any conflict, this Act
11 prevails over another Act of the 85th Legislature, Regular Session,
12 2017, relating to nonsubstantive additions to and corrections in
13 enacted codes.

14 SECTION 4.03. This Act takes effect September 1, 2017.