

By: Burton

S.B. No. 1822

A BILL TO BE ENTITLED

AN ACT

1
2 relating to criminal offenses previously compiled in statutes
3 outside the Penal Code, to repealing certain of those offenses, and
4 to conforming punishments for certain of those offenses to the
5 penalty structure provided in the Penal Code; increasing the
6 punishment for sabotage and sedition; imposing a civil penalty.

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

8 SECTION 1. Section 17.46(b), Business & Commerce Code, as
9 amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts of
10 the 84th Legislature, Regular Session, 2015, is reenacted and
11 amended to read as follows:

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

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

16 (2) causing confusion or misunderstanding as to the
17 source, sponsorship, approval, or certification of goods or
18 services;

19 (3) causing confusion or misunderstanding as to
20 affiliation, connection, or association with, or certification by,
21 another;

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

24 (5) representing that goods or services have

1 sponsorship, approval, characteristics, ingredients, uses,
2 benefits, or quantities which they do not have or that a person has
3 a sponsorship, approval, status, affiliation, or connection which
4 the person does not;

5 (6) representing that goods are original or new if
6 they are deteriorated, reconditioned, reclaimed, used, or
7 secondhand;

8 (7) representing that goods or services are of a
9 particular standard, quality, or grade, or that goods are of a
10 particular style or model, if they are of another;

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

13 (9) advertising goods or services with intent not to
14 sell them as advertised;

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

18 (11) making false or misleading statements of fact
19 concerning the reasons for, existence of, or amount of price
20 reductions;

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

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

27 (14) misrepresenting the authority of a salesman,

1 representative or agent to negotiate the final terms of a consumer
2 transaction;

3 (15) basing a charge for the repair of any item in
4 whole or in part on a guaranty or warranty instead of on the value of
5 the actual repairs made or work to be performed on the item without
6 stating separately the charges for the work and the charge for the
7 warranty or guaranty, if any;

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

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

13 (18) advertising, selling, or distributing a card
14 which purports to be a prescription drug identification card issued
15 under Section [4151.152](#), Insurance Code, in accordance with rules
16 adopted by the commissioner of insurance, which offers a discount
17 on the purchase of health care goods or services from a third party
18 provider, and which is not evidence of insurance coverage, unless:

19 (A) the discount is authorized under an agreement
20 between the seller of the card and the provider of those goods and
21 services or the discount or card is offered to members of the
22 seller;

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

25 (C) the discount is not false, misleading, or
26 deceptive;

27 (19) using or employing a chain referral sales plan in

1 connection with the sale or offer to sell of goods, merchandise, or
2 anything of value, which uses the sales technique, plan,
3 arrangement, or agreement in which the buyer or prospective buyer
4 is offered the opportunity to purchase merchandise or goods and in
5 connection with the purchase receives the seller's promise or
6 representation that the buyer shall have the right to receive
7 compensation or consideration in any form for furnishing to the
8 seller the names of other prospective buyers if receipt of the
9 compensation or consideration is contingent upon the occurrence of
10 an event subsequent to the time the buyer purchases the merchandise
11 or goods;

12 (20) representing that a guaranty or warranty confers
13 or involves rights or remedies which it does not have or involve,
14 provided, however, that nothing in this subchapter shall be
15 construed to expand the implied warranty of merchantability as
16 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
17 2A.216 to involve obligations in excess of those which are
18 appropriate to the goods;

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

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

24 (23) filing suit founded upon a written contractual
25 obligation of and signed by the defendant to pay money arising out
26 of or based on a consumer transaction for goods, services, loans, or
27 extensions of credit intended primarily for personal, family,

1 household, or agricultural use in any county other than in the
2 county in which the defendant resides at the time of the
3 commencement of the action or in the county in which the defendant
4 in fact signed the contract; provided, however, that a violation of
5 this subsection shall not occur where it is shown by the person
6 filing such suit that the person neither knew or had reason to know
7 that the county in which such suit was filed was neither the county
8 in which the defendant resides at the commencement of the suit nor
9 the county in which the defendant in fact signed the contract;

10 (24) failing to disclose information concerning goods
11 or services which was known at the time of the transaction if such
12 failure to disclose such information was intended to induce the
13 consumer into a transaction into which the consumer would not have
14 entered had the information been disclosed;

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

19 (26) selling, offering to sell, or illegally promoting
20 an annuity contract under Chapter 22, Acts of the 57th Legislature,
21 3rd Called Session, 1962 (Article [6228a-5](#), Vernon's Texas Civil
22 Statutes), with the intent that the annuity contract will be the
23 subject of a salary reduction agreement, as defined by that Act, if
24 the annuity contract is not an eligible qualified investment under
25 that Act or is not registered with the Teacher Retirement System of
26 Texas as required by Section 8A of that Act;

27 (27) taking advantage of a disaster declared by the

1 governor under Chapter 418, Government Code, by:

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

4 (B) demanding an exorbitant or excessive price in
5 connection with the sale or lease of fuel, food, medicine, or
6 another necessity;

7 (28) using the translation into a foreign language of
8 a title or other word, including "attorney," "lawyer," "licensed,"
9 "notary," and "notary public," in any written or electronic
10 material, including an advertisement, a business card, a
11 letterhead, stationery, a website, or an online video, in reference
12 to a person who is not an attorney in order to imply that the person
13 is authorized to practice law in the United States;

14 (29) [~~(28)~~] delivering or distributing a solicitation
15 in connection with a good or service that:

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

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

21 (30) [~~(29)~~] delivering or distributing a solicitation
22 in connection with a good or service that resembles a check or other
23 negotiable instrument or invoice, unless the portion of the
24 solicitation that resembles a check or other negotiable instrument
25 or invoice includes the following notice, clearly and conspicuously
26 printed in at least 18-point type:

27 "SPECIMEN-NON-NEGOTIABLE";

1 (31) [~~30~~] in the production, sale, distribution, or
2 promotion of a synthetic substance that produces and is intended to
3 produce an effect when consumed or ingested similar to, or in excess
4 of, the effect of a controlled substance or controlled substance
5 analogue, as those terms are defined by Section 481.002, Health and
6 Safety Code:

7 (A) making a deceptive representation or
8 designation about the synthetic substance; or

9 (B) causing confusion or misunderstanding as to
10 the effects the synthetic substance causes when consumed or
11 ingested; or

12 (32) [~~31~~] a licensed public insurance adjuster
13 directly or indirectly soliciting employment, as defined by Section
14 38.01, Penal Code, for an attorney, or a licensed public insurance
15 adjuster entering into a contract with an insured for the primary
16 purpose of referring the insured to an attorney without the intent
17 to actually perform the services customarily provided by a licensed
18 public insurance adjuster, provided that this subdivision may not
19 be construed to prohibit a licensed public insurance adjuster from
20 recommending a particular attorney to an insured.

21 SECTION 2. Section 17.461, Business & Commerce Code, is
22 transferred to Subchapter D, Chapter 32, Penal Code, and
23 redesignated as Section 32.55, Penal Code, to read as follows:

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

26 (1) "Compensation" means payment of money, a financial
27 benefit, or another thing of value. The term does not include

1 payment based on sale of a product to a person, including a
2 participant, who purchases the product for actual use or
3 consumption.

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

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

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

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

12 (3) "Participate" means to contribute money into a
13 pyramid promotional scheme without promoting, organizing, or
14 operating the scheme.

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

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

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

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

23 (6) "Pyramid promotional scheme" means a plan or
24 operation by which a person gives consideration for the opportunity
25 to receive compensation that is derived primarily from a person's
26 introduction of other persons to participate in the plan or
27 operation rather than from the sale of a product by a person

1 introduced into the plan or operation.

2 (b) To qualify as a repurchase agreement for the purposes of
3 Subsection (a)(2)(B), an agreement must be an enforceable agreement
4 by the seller to repurchase, on written request of the purchaser and
5 not later than the first anniversary of the purchaser's date of
6 purchase, all unencumbered products that are in an unused,
7 commercially resalable condition at a price not less than 90
8 percent of the amount actually paid by the purchaser for the
9 products being returned, less any consideration received by the
10 purchaser for purchase of the products being returned. A product
11 that is no longer marketed by the seller is considered resalable if
12 the product is otherwise in an unused, commercially resalable
13 condition and is returned to the seller not later than the first
14 anniversary of the purchaser's date of purchase, except that the
15 product is not considered resalable if before the purchaser
16 purchased the product it was clearly disclosed to the purchaser
17 that the product was sold as a nonreturnable, discontinued,
18 seasonal, or special promotion item.

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

23 (d) It is not a defense to prosecution for an offense under
24 this section that the pyramid promotional scheme involved both a
25 franchise to sell a product and the authority to sell additional
26 franchises if the emphasis of the scheme is on the sale of
27 additional franchises.

1 SECTION 3. Sections 522.001 and 522.002, Business &
2 Commerce Code, are transferred to Subchapter D, Chapter 32, Penal
3 Code, redesignated as Section 32.511, Penal Code, and amended to
4 read as follows:

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

7 (1) "Payment card" means a credit card, debit card,
8 check card, or other card that is issued to an authorized user to
9 purchase or obtain goods, services, money, or any other thing of
10 value.

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

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

17 (b) [~~Sec. 522.002. OFFENSE, PENALTY. (a)~~] A person commits
18 an offense if the person uses a scanning device or re-encoder to
19 access, read, scan, store, or transfer information encoded on the
20 magnetic strip of a payment card without the consent of an
21 authorized user of the payment card and with intent to harm or
22 defraud another.

23 (c) [~~(b)~~] An offense under this section is a Class B
24 misdemeanor, except that the offense is a state jail felony if the
25 information accessed, read, scanned, stored, or transferred was
26 protected health information as defined by the Health Insurance
27 Portability and Accountability Act and Privacy Standards, as

1 defined by Section 181.001, Health and Safety Code.

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

5 SECTION 4. Article 18.18(g), Code of Criminal Procedure, is
6 amended to read as follows:

7 (g) For purposes of this article:

8 (1) "criminal instrument" has the meaning defined in
9 the Penal Code;

10 (2) "gambling device or equipment, altered gambling
11 equipment or gambling paraphernalia" has the meaning defined in the
12 Penal Code;

13 (3) "prohibited weapon" has the meaning defined in the
14 Penal Code;

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

16 (A) equipment used for training or handling a
17 fighting dog, including a harness, treadmill, cage, decoy, pen,
18 house for keeping a fighting dog, feeding apparatus, or training
19 pen;

20 (B) equipment used for transporting a fighting
21 dog, including any automobile, or other vehicle, and its
22 appurtenances which are intended to be used as a vehicle for
23 transporting a fighting dog;

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

27 (D) a dog trained, being trained, or intended to

1 be used to fight with another dog;

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

4 (6) "re-encoder" has the meaning assigned by Section
5 32.511, Penal [~~522.001, Business & Commerce~~] Code;

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

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

11 SECTION 5. Article 59.01(2), Code of Criminal Procedure, is
12 amended to read as follows:

13 (2) "Contraband" means property of any nature,
14 including real, personal, tangible, or intangible, that is:

15 (A) used in the commission of:

16 (i) any first or second degree felony under
17 the Penal Code;

18 (ii) any felony under Section 15.031(b),
19 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
20 33A, or 35, Penal Code;

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

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

27 (B) used or intended to be used in the commission

1 of:

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

4 (ii) any felony under Chapter 483, Health
5 and Safety Code;

6 (iii) a felony under Chapter 151, Finance
7 Code;

8 (iv) any felony under Chapter 34, Penal
9 Code;

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

13 (vi) any felony under Chapter 32, Human
14 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
15 involves the state Medicaid program;

16 (vii) a Class B misdemeanor under Section
17 32.511, Penal [~~Chapter 522, Business & Commerce~~] Code;

18 (viii) a Class A misdemeanor under Section
19 306.051, Business & Commerce Code;

20 (ix) any offense under Section 42.10, Penal
21 Code;

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

24 (xi) any offense under Chapter 71, Penal
25 Code;

26 (xii) any offense under Section 20.05 or
27 20.06, Penal Code; or

1 (xiii) an offense under Section 326.002,
2 Business & Commerce Code;

3 (C) the proceeds gained from the commission of a
4 felony listed in Paragraph (A) or (B) of this subdivision, a
5 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of
6 this subdivision, or a crime of violence;

7 (D) acquired with proceeds gained from the
8 commission of a felony listed in Paragraph (A) or (B) of this
9 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
10 or (xi) of this subdivision, or a crime of violence;

11 (E) used to facilitate or intended to be used to
12 facilitate the commission of a felony under Section 15.031 or
13 43.25, Penal Code; or

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

17 SECTION 6. Articles 62.102 and 62.203, Code of Criminal
18 Procedure, are transferred to Chapter 38, Penal Code, redesignated
19 as Sections 38.20 and 38.21, Penal Code, respectively, and amended
20 to read as follows:

21 Sec. 38.20 [~~Art. 62.102~~]. FAILURE TO COMPLY WITH SEX
22 OFFENDER REGISTRATION REQUIREMENTS. (a) A person commits an
23 offense if the person is required to register as a sex offender
24 under Chapter 62, Code of Criminal Procedure, and fails to comply
25 with any requirement of that [~~this~~] chapter.

26 (b) An offense under this section [~~article~~] is:

27 (1) a state jail felony if the actor is a person whose

1 duty to register expires under Article 62.101(b) or (c), Code of
2 Criminal Procedure;

3 (2) a felony of the third degree if the actor is a
4 person whose duty to register expires under Article 62.101(a), Code
5 of Criminal Procedure, and who is required to verify registration
6 once each year under Article 62.058 of that code; and

7 (3) a felony of the second degree if the actor is a
8 person whose duty to register expires under Article 62.101(a), Code
9 of Criminal Procedure, and who is required to verify registration
10 once each 90-day period under Article 62.058 of that code.

11 (c) If it is shown at the trial of a person for an offense or
12 an attempt to commit an offense under this section [~~article~~] that
13 the person has previously been convicted of an offense or an attempt
14 to commit an offense under this section [~~article~~], the punishment
15 for the offense or the attempt to commit the offense is increased to
16 the punishment for the next highest degree of felony.

17 (d) If it is shown at the trial of a person for an offense
18 under this section [~~article~~] or an attempt to commit an offense
19 under this section [~~article~~] that the person fraudulently used
20 identifying information in violation of Section 32.51 [~~Penal~~
21 ~~Code~~] during the commission or attempted commission of the
22 offense, the punishment for the offense or the attempt to commit the
23 offense is increased to the punishment for the next highest degree
24 of felony.

25 Sec. 38.21 [~~Art. 62.203~~]. FAILURE TO COMPLY WITH SEX
26 OFFENDER REGISTRATION REQUIREMENTS: INDIVIDUALS SUBJECT TO
27 COMMITMENT AS SEXUALLY VIOLENT PREDATORS. (a) A person commits an

1 offense if the person, after commitment as a sexually violent
2 predator under Chapter 841, Health and Safety Code, but before the
3 person is released from all requirements of the civil commitment
4 process, fails to comply with any requirement of Chapter 62, Code of
5 Criminal Procedure [~~this chapter~~].

6 (b) An offense under this section [~~article~~] is a felony of
7 the second degree.

8 SECTION 7. Section 24.579(c), Government Code, is amended
9 to read as follows:

10 (c) Notwithstanding any other law and only to the extent
11 that the duties of those individuals relate to civil commitment
12 proceedings under Chapter 841, Health and Safety Code, or to
13 criminal cases involving offenses under Section 841.085, Health and
14 Safety Code, and Section 38.21, Penal Code [~~Article 62.203, Code of~~
15 ~~Criminal Procedure~~], the state shall pay the salaries of and other
16 expenses related to the court reporter appointed for the 435th
17 District Court under Section 52.041 and the court coordinator
18 appointed for the court under Section 74.101. The salaries of the
19 court reporter and court coordinator shall be set in amounts
20 commensurate with the salaries paid by other district courts for
21 those positions.

22 SECTION 8. Sections 557.001 and 557.011, Government Code,
23 are transferred to Chapter 40, Penal Code, as added by this Act,
24 redesignated as Sections 40.01 and 40.02, Penal Code, respectively,
25 and amended to read as follows:

26 Sec. 40.01 [~~557.001~~]. SEDITON. (a) A person commits an
27 offense if the person knowingly:

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

5 (2) under circumstances that constitute a clear and
6 present danger to the security of this state or a political
7 subdivision of this state, advocates, advises, or teaches or
8 conspires with one or more persons to advocate, advise, or teach a
9 person to commit or attempt to commit an act described in
10 Subdivision (1); or

11 (3) participates, with knowledge of the nature of the
12 organization, in the management of an organization that engages in
13 or attempts to engage in an act intended to overthrow, destroy, or
14 alter the constitutional form of government of this state or of any
15 political subdivision of this state by force or violence.

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

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

19 ~~[(2) confinement in the Texas Department of Criminal~~
20 ~~Justice for a term of not less than one year or more than 20 years;~~
21 ~~or~~

22 ~~[(3) both fine and imprisonment].~~

23 (c) A person convicted of an offense under this section may
24 not receive community supervision under Chapter [42A](#), Code of
25 Criminal Procedure.

26 Sec. [40.02](#) [~~557.011~~]. SABOTAGE. (a) A person commits an
27 offense if the person, with the intent to injure the United States,

1 this state, or any facility or property used for national defense
2 sabotages or attempts to sabotage any property or facility used or
3 to be used for national defense.

4 (b) An offense under this section is a felony of the second
5 degree [~~punishable by confinement in the Texas Department of~~
6 ~~Criminal Justice for a term of not less than two years or more than~~
7 ~~20 years~~].

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

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

13 SECTION 9. Section 557.002, Government Code, is amended to
14 read as follows:

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

19 SECTION 10. Section 3101.010(b), Government Code, is
20 amended to read as follows:

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

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

24 [~~(2) confinement in the county jail for a term not to~~
25 ~~exceed three months, or~~

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

27 SECTION 11. Section 615.002(e), Local Government Code, is

1 amended to read as follows:

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

6 SECTION 12. Section 11.074(b), Natural Resources Code, is
7 amended to read as follows:

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

17 SECTION 13. Section 88.134(b), Natural Resources Code, is
18 amended to read as follows:

19 (b) A person who violates any [~~other~~] provision of this
20 chapter other than those covered by Subsection (a), a person who
21 fails to comply with any of the other terms of this chapter, a
22 person who fails to comply with the terms of a rule or order adopted
23 by the governmental agency under the terms of this chapter, or a
24 person who violates any of the rules or orders of the governmental
25 agency adopted under the provisions of this chapter commits an
26 offense. An offense under this subsection is a felony of the third
27 degree [~~on conviction is considered guilty of a felony and on~~

1 ~~conviction shall be punished by imprisonment in the Texas~~
2 ~~Department of Criminal Justice for a term of not less than two nor~~
3 ~~more than four years].~~

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

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

8 SECTION 15. Section 264.151(a), Occupations Code, is
9 amended to read as follows:

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

13 SECTION 16. Section 266.303, Occupations Code, is amended
14 by amending Subsection (b) and adding Subsection (b-1) to read as
15 follows:

16 (b) An offense for a violation of Section 266.151 is a Class
17 A misdemeanor, except that the offense is a felony of the third
18 degree if it is shown on the trial of the offense that the defendant
19 has previously been convicted of an offense for a violation of
20 Section 266.151.

21 (b-1) An offense for a violation of [or] Section 266.301(b)
22 is a Class A misdemeanor, except that the offense is a felony of the
23 third degree if it is shown on the trial of the offense that the
24 defendant has previously been convicted of an offense for a
25 violation of Section 266.301(b).

26 SECTION 17. Section 1701.553(b), Occupations Code, is
27 amended to read as follows:

1 (b) An offense under Subsection (a) is a Class A misdemeanor
2 [~~state jail felony~~].

3 SECTION 18. Subchapter E, Chapter 1802, Occupations Code,
4 is amended by adding Section 1802.2025 to read as follows:

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

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

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

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

13 SECTION 19. Section 2155.002(d), Occupations Code, is
14 amended to read as follows:

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

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

18 [~~(2) confinement in jail for a term not to exceed 30~~
19 ~~days; or~~

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

21 SECTION 20. Section 2156.006, Occupations Code, is amended
22 to read as follows:

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

26 [~~(1)~~] does not comply with the law governing
27 theaters[~~+~~]

1 ~~[(2) is convicted of an offense under Section~~
2 ~~2156.005]~~.

3 SECTION 21. Section 32.153(a), Parks and Wildlife Code, is
4 amended to read as follows:

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

- 6 (1) Section 32.051;
- 7 (2) ~~[Section 32.053(b)]~~;
- 8 ~~[(3)]~~ Section 32.056;
- 9 (3) ~~[(4) Section 32.057(d)]~~;
- 10 ~~[(5)]~~ Section 32.101;
- 11 (4) ~~[(6)]~~ Section 32.104;
- 12 (5) ~~[(7)]~~ Section 32.105;
- 13 (6) ~~[(8)]~~ Section 32.106;
- 14 (7) ~~[(9)]~~ Section 32.107; or
- 15 (8) ~~[(10)]~~ Section 32.108.

16 SECTION 22. Section 62.013, Parks and Wildlife Code, is
17 amended to read as follows:

18 Sec. 62.013. PENALTIES. (a) Except as provided by
19 Subsections (b), (b-1), and (c) of this section, a person who
20 violates a provision of this subchapter commits an offense that is a
21 Class C Parks and Wildlife Code misdemeanor.

22 (b) A person who violates Section 62.003, 62.004, ~~[62.005]~~,
23 62.0065, 62.011(c), or 350.001 or a rule adopted under Section
24 62.0065 commits an offense that is a Class A Parks and Wildlife Code
25 misdemeanor, unless it is shown at the trial of the defendant for a
26 violation of that section or rule, as appropriate, that the
27 defendant has been convicted one or more times before the trial date

1 of a violation of that section or rule, as appropriate, in which
2 case the offense is a Parks and Wildlife Code state jail felony.

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

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

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

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

13 (c) In addition to the punishments provided in Subsections
14 (a), ~~and~~ (b), and (b-1), a person who violates Section 62.003,
15 62.004, 62.005, 62.0065, 62.011(c), or 350.001 or a rule adopted
16 under Section 62.0065 is punishable by the revocation or suspension
17 under Section 12.5015 of hunting and fishing licenses and permits.

18 SECTION 23. Section 76.040, Parks and Wildlife Code, is
19 amended by amending Subsection (b) and adding Subsection (b-1) to
20 read as follows:

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

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

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

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

3 SECTION 24. Section 76.118, Parks and Wildlife Code, is
4 amended by amending Subsections (a), (b), and (c) and adding
5 Subsection (a-1) to read as follows:

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

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

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

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

18 (b) A person who violates Section ~~[76.101,]~~ 76.107~~[, or~~
19 ~~76.109]~~ or a regulation of the commission issued under that section
20 ~~[one of those sections]~~ commits an offense that is a Class B Parks
21 and Wildlife Code misdemeanor.

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

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

27 (2) Class A Parks and Wildlife Code misdemeanor if the

1 person intentionally or knowingly commits the offense.

2 SECTION 25. Section 77.061(b), Parks and Wildlife Code, is
3 amended to read as follows:

4 (b) Notwithstanding the provisions of Subchapter E, Chapter
5 12, of this code, a person who violates Subdivision (1) of
6 Subsection (a) of this section or Section 77.024 of this code
7 commits an 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 [~~and on~~
12 ~~conviction is punishable by a fine of not less than \$2,500 nor more~~
13 ~~than \$5,000, by confinement in the county jail for not less than six~~
14 ~~months nor more than one year, or by both].~~

15 SECTION 26. Section 19.03(a), Penal Code, is amended to
16 read as follows:

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

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

22 (2) the person intentionally commits the murder in the
23 course of committing or attempting to commit kidnapping, burglary,
24 robbery, aggravated sexual assault, arson, obstruction or
25 retaliation, sabotage, or terroristic threat under Section
26 22.07(a)(1), (3), (4), (5), or (6);

27 (3) the person commits the murder for remuneration or

1 the promise of remuneration or employs another to commit the murder
2 for remuneration or the promise of remuneration;

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

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

7 (A) who is employed in the operation of the penal
8 institution; or

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

11 (6) the person:

12 (A) while incarcerated for an offense under this
13 section or Section 19.02, murders another; or

14 (B) while serving a sentence of life imprisonment
15 or a term of 99 years for an offense under Section 20.04, 22.021, or
16 29.03, murders another;

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

18 (A) during the same criminal transaction; or

19 (B) during different criminal transactions but
20 the murders are committed pursuant to the same scheme or course of
21 conduct;

22 (8) the person murders an individual under 10 years of
23 age; or

24 (9) the person murders another person in retaliation
25 for or on account of the service or status of the other person as a
26 judge or justice of the supreme court, the court of criminal
27 appeals, a court of appeals, a district court, a criminal district

1 court, a constitutional county court, a statutory county court, a
2 justice court, or a municipal court.

3 SECTION 27. Section 32.51(c-1), Penal Code, is amended to
4 read as follows:

5 (c-1) An offense described for purposes of punishment by
6 Subsections (c)(1)-(3) is increased to the next higher category of
7 offense if it is shown on the trial of the offense that:

8 (1) the offense was committed against an elderly
9 individual as defined by Section 22.04; or

10 (2) the actor fraudulently used identifying
11 information with the intent to facilitate an offense under Section
12 38.20 [~~Article 62.102, Code of Criminal Procedure~~].

13 SECTION 28. Section 37.10(c)(2), Penal Code, is amended to
14 read as follows:

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

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

1 States, unless the actor's intent is to defraud or harm another, in
2 which event the offense is a felony of the second degree;

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

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

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

14 SECTION 29. Section 38.05(d), Penal Code, is amended to
15 read as follows:

16 (d) An offense under this section is a felony of the third
17 degree if the person who is harbored, concealed, provided with a
18 means of avoiding arrest or effecting escape, or warned of
19 discovery or apprehension is under arrest for, charged with, or
20 convicted of a felony, including an offense under Section 38.20
21 [~~62.102, Code of Criminal Procedure~~], or is in custody or detention
22 for, is alleged in a petition to have engaged in, or has been
23 adjudicated as having engaged in delinquent conduct that violates a
24 penal law of the grade of felony, including an offense under Section
25 38.20 [~~62.102, Code of Criminal Procedure~~], and the person charged
26 under this section knew that the person they harbored, concealed,
27 provided with a means of avoiding arrest or effecting escape, or

1 warned of discovery or apprehension is under arrest for, charged
2 with, or convicted of a felony, or is in custody or detention for,
3 is alleged in a petition to have engaged in, or has been adjudicated
4 as having engaged in delinquent conduct that violates a penal law of
5 the grade of felony.

6 SECTION 30. Title 8, Penal Code, is amended by adding
7 Chapter 40, and a heading is added to that chapter to read as
8 follows:

9 CHAPTER 40. SEDITION AND SABOTAGE

10 SECTION 31. Section 154.517, Tax Code, is amended to read as
11 follows:

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

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

19 SECTION 32. Section 155.208, Tax Code, is amended to read as
20 follows:

21 Sec. 155.208. MISDEMEANOR. (a) An offense under Section
22 155.202, 155.204, 155.205, 155.206, or 155.207 ~~[Sections~~
23 ~~155.202-155.207]~~ is a Class A misdemeanor.

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

1 SECTION 33. Section 155.213, Tax Code, is amended to read as
2 follows:

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

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

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

14 SECTION 34. Section 15.030(c), Utilities Code, is amended
15 to read as follows:

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

18 SECTION 35. Section 105.024(b), Utilities Code, is amended
19 to read as follows:

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

22 SECTION 36. REPEALER. The following laws are repealed:

- 23 (1) Section 101.64, Alcoholic Beverage Code;
24 (2) Sections 17.22, 17.30, 17.31, and 204.005,
25 Business & Commerce Code;
26 (3) Chapter 504, Business & Commerce Code;
27 (4) the heading to Chapter 522, Business & Commerce

1 Code;

2 (5) Section 44.051, Education Code;

3 (6) Sections 59.002, 89.101, 119.202, 122.251, and
4 199.001, Finance Code;

5 (7) the heading to Subchapter B, Chapter 557,
6 Government Code;

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

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

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

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

13 (12) Articles 4005a, 4006a, 4006b, 4015d, 4015e, and
14 5196b, Revised Statutes;

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

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

21 SECTION 37. The changes in law made by this Act apply only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 38. To the extent of any conflict, this Act prevails
3 over another Act of the 85th Legislature, Regular Session, 2017,
4 relating to nonsubstantive additions to and corrections in enacted
5 codes.

6 SECTION 39. This Act takes effect September 1, 2017.