

1-1 By: Burton S.B. No. 1822
 1-2 (In the Senate - Filed March 9, 2017; March 23, 2017, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 May 15, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; May 15, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1822 By: Huffman

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the creation of a commission to review certain penal
 1-22 laws of this state and certain recommendations regarding those
 1-23 laws, to criminal offenses previously compiled in statutes outside
 1-24 the Penal Code, to repealing certain of those offenses, and to
 1-25 conforming punishments for certain of those offenses to the penalty
 1-26 structure provided in the Penal Code; increasing the punishment for
 1-27 sabotage and sedition; imposing a civil penalty.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 ARTICLE 1. PURPOSE

1-30 SECTION 1.01. PURPOSE. The purpose of this Act is to
 1-31 implement the recommendations of the commission created by Section
 1-32 29, Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
 1-33 Session, 2015, and to authorize additional review of the penal laws
 1-34 described by Section 2.01(a) of this Act.

1-35 ARTICLE 2. COMMISSION TO STUDY CERTAIN PENAL LAWS

1-36 SECTION 2.01. COMMISSION TO STUDY CERTAIN PENAL LAWS.
 1-37 (a) A commission is created to study and review all penal laws of
 1-38 this state other than criminal offenses:

- 1-39 (1) under the Penal Code;
- 1-40 (2) under Chapter 481, Health and Safety Code; or
- 1-41 (3) related to the operation of a motor vehicle.

1-42 (b) The commission shall:

- 1-43 (1) evaluate all laws described by Subsection (a) of
 1-44 this section;
- 1-45 (2) make recommendations to the legislature regarding
 1-46 the repeal or amendment of laws that are identified as being
 1-47 unnecessary, unclear, duplicative, overly broad, or otherwise
 1-48 insufficient to serve the intended purpose of the law, including
 1-49 the laws identified by the commission created by Section 29,
 1-50 Chapter 1251 (H.B. 1396), Acts of the 84th Legislature, Regular
 1-51 Session, 2015, as requiring additional review; and
- 1-52 (3) evaluate the recommendations made by the
 1-53 commission created by Section 29, Chapter 1251 (H.B. 1396), Acts of
 1-54 the 84th Legislature, Regular Session, 2015.

1-55 (c) The commission is composed of nine members appointed as
 1-56 follows:

- 1-57 (1) two members appointed by the governor;
- 1-58 (2) two members appointed by the lieutenant governor;
- 1-59 (3) two members appointed by the speaker of the house
 1-60 of representatives;

2-1 (4) two members appointed by the chief justice of the
2-2 Supreme Court of Texas; and
2-3 (5) one member appointed by the presiding judge of the
2-4 Texas Court of Criminal Appeals.
2-5 (d) The officials making appointments to the commission
2-6 under Subsection (c) of this section shall ensure that the
2-7 membership of the commission includes representatives of all areas
2-8 of the criminal justice system, including prosecutors, defense
2-9 attorneys, judges, legal scholars, and relevant business
2-10 interests.
2-11 (e) The governor shall designate one member of the
2-12 commission to serve as the presiding officer of the commission.
2-13 (f) A member of the commission is not entitled to
2-14 compensation or reimbursement of expenses.
2-15 (g) The commission shall meet at the call of the presiding
2-16 officer.
2-17 (h) Not later than November 1, 2018, the commission shall
2-18 report the commission's findings and recommendations to the
2-19 governor, the lieutenant governor, the speaker of the house of
2-20 representatives, the Supreme Court of Texas, the Texas Court of
2-21 Criminal Appeals, and the standing committees of the house of
2-22 representatives and the senate with primary jurisdiction over
2-23 criminal justice. The commission shall include in its
2-24 recommendations any specific statutes that the commission
2-25 recommends repealing or amending.
2-26 SECTION 2.02. APPOINTMENT OF MEMBERS. Not later than the
2-27 60th day after the effective date of this Act, the governor, the
2-28 lieutenant governor, the speaker of the house of representatives,
2-29 the chief justice of the Supreme Court of Texas, and the presiding
2-30 judge of the Texas Court of Criminal Appeals shall appoint the
2-31 members of the commission created under this article.
2-32 SECTION 2.03. ABOLITION OF COMMISSION. The commission is
2-33 abolished and this article expires December 31, 2018.
2-34 ARTICLE 3. MISCELLANEOUS AMENDMENTS RELATING TO CRIMINAL OFFENSES
2-35 SECTION 3.01. Section 17.46(b), Business & Commerce Code,
2-36 as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts
2-37 of the 84th Legislature, Regular Session, 2015, is reenacted and
2-38 amended to read as follows:
2-39 (b) Except as provided in Subsection (d) of this section,
2-40 the term "false, misleading, or deceptive acts or practices"
2-41 includes, but is not limited to, the following acts:
2-42 (1) passing off goods or services as those of another;
2-43 (2) causing confusion or misunderstanding as to the
2-44 source, sponsorship, approval, or certification of goods or
2-45 services;
2-46 (3) causing confusion or misunderstanding as to
2-47 affiliation, connection, or association with, or certification by,
2-48 another;
2-49 (4) using deceptive representations or designations
2-50 of geographic origin in connection with goods or services;
2-51 (5) representing that goods or services have
2-52 sponsorship, approval, characteristics, ingredients, uses,
2-53 benefits, or quantities which they do not have or that a person has
2-54 a sponsorship, approval, status, affiliation, or connection which
2-55 the person does not;
2-56 (6) representing that goods are original or new if
2-57 they are deteriorated, reconditioned, reclaimed, used, or
2-58 secondhand;
2-59 (7) representing that goods or services are of a
2-60 particular standard, quality, or grade, or that goods are of a
2-61 particular style or model, if they are of another;
2-62 (8) disparaging the goods, services, or business of
2-63 another by false or misleading representation of facts;
2-64 (9) advertising goods or services with intent not to
2-65 sell them as advertised;
2-66 (10) advertising goods or services with intent not to
2-67 supply a reasonable expectable public demand, unless the
2-68 advertisements disclosed a limitation of quantity;
2-69 (11) making false or misleading statements of fact

3-1 concerning the reasons for, existence of, or amount of price
3-2 reductions;

3-3 (12) representing that an agreement confers or
3-4 involves rights, remedies, or obligations which it does not have or
3-5 involve, or which are prohibited by law;

3-6 (13) knowingly making false or misleading statements
3-7 of fact concerning the need for parts, replacement, or repair
3-8 service;

3-9 (14) misrepresenting the authority of a salesman,
3-10 representative or agent to negotiate the final terms of a consumer
3-11 transaction;

3-12 (15) basing a charge for the repair of any item in
3-13 whole or in part on a guaranty or warranty instead of on the value of
3-14 the actual repairs made or work to be performed on the item without
3-15 stating separately the charges for the work and the charge for the
3-16 warranty or guaranty, if any;

3-17 (16) disconnecting, turning back, or resetting the
3-18 odometer of any motor vehicle so as to reduce the number of miles
3-19 indicated on the odometer gauge;

3-20 (17) advertising of any sale by fraudulently
3-21 representing that a person is going out of business;

3-22 (18) advertising, selling, or distributing a card
3-23 which purports to be a prescription drug identification card issued
3-24 under Section 4151.152, Insurance Code, in accordance with rules
3-25 adopted by the commissioner of insurance, which offers a discount
3-26 on the purchase of health care goods or services from a third party
3-27 provider, and which is not evidence of insurance coverage, unless:

3-28 (A) the discount is authorized under an agreement
3-29 between the seller of the card and the provider of those goods and
3-30 services or the discount or card is offered to members of the
3-31 seller;

3-32 (B) the seller does not represent that the card
3-33 provides insurance coverage of any kind; and

3-34 (C) the discount is not false, misleading, or
3-35 deceptive;

3-36 (19) using or employing a chain referral sales plan in
3-37 connection with the sale or offer to sell of goods, merchandise, or
3-38 anything of value, which uses the sales technique, plan,
3-39 arrangement, or agreement in which the buyer or prospective buyer
3-40 is offered the opportunity to purchase merchandise or goods and in
3-41 connection with the purchase receives the seller's promise or
3-42 representation that the buyer shall have the right to receive
3-43 compensation or consideration in any form for furnishing to the
3-44 seller the names of other prospective buyers if receipt of the
3-45 compensation or consideration is contingent upon the occurrence of
3-46 an event subsequent to the time the buyer purchases the merchandise
3-47 or goods;

3-48 (20) representing that a guaranty or warranty confers
3-49 or involves rights or remedies which it does not have or involve,
3-50 provided, however, that nothing in this subchapter shall be
3-51 construed to expand the implied warranty of merchantability as
3-52 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
3-53 2A.216 to involve obligations in excess of those which are
3-54 appropriate to the goods;

3-55 (21) promoting a pyramid promotional scheme, as
3-56 defined by Section 32.55, Penal Code [~~Section 17.461~~];

3-57 (22) representing that work or services have been
3-58 performed on, or parts replaced in, goods when the work or services
3-59 were not performed or the parts replaced;

3-60 (23) filing suit founded upon a written contractual
3-61 obligation of and signed by the defendant to pay money arising out
3-62 of or based on a consumer transaction for goods, services, loans, or
3-63 extensions of credit intended primarily for personal, family,
3-64 household, or agricultural use in any county other than in the
3-65 county in which the defendant resides at the time of the
3-66 commencement of the action or in the county in which the defendant
3-67 in fact signed the contract; provided, however, that a violation of
3-68 this subsection shall not occur where it is shown by the person
3-69 filing such suit that the person neither knew or had reason to know

4-1 that the county in which such suit was filed was neither the county
4-2 in which the defendant resides at the commencement of the suit nor
4-3 the county in which the defendant in fact signed the contract;

4-4 (24) failing to disclose information concerning goods
4-5 or services which was known at the time of the transaction if such
4-6 failure to disclose such information was intended to induce the
4-7 consumer into a transaction into which the consumer would not have
4-8 entered had the information been disclosed;

4-9 (25) using the term "corporation," "incorporated," or
4-10 an abbreviation of either of those terms in the name of a business
4-11 entity that is not incorporated under the laws of this state or
4-12 another jurisdiction;

4-13 (26) selling, offering to sell, or illegally promoting
4-14 an annuity contract under Chapter 22, Acts of the 57th Legislature,
4-15 3rd Called Session, 1962 (Article [6228a-5](#), Vernon's Texas Civil
4-16 Statutes), with the intent that the annuity contract will be the
4-17 subject of a salary reduction agreement, as defined by that Act, if
4-18 the annuity contract is not an eligible qualified investment under
4-19 that Act or is not registered with the Teacher Retirement System of
4-20 Texas as required by Section 8A of that Act;

4-21 (27) taking advantage of a disaster declared by the
4-22 governor under Chapter [418](#), Government Code, by:

4-23 (A) selling or leasing fuel, food, medicine, or
4-24 another necessity at an exorbitant or excessive price; or
4-25 (B) demanding an exorbitant or excessive price in
4-26 connection with the sale or lease of fuel, food, medicine, or
4-27 another necessity;

4-28 (28) using the translation into a foreign language of
4-29 a title or other word, including "attorney," "lawyer," "licensed,"
4-30 "notary," and "notary public," in any written or electronic
4-31 material, including an advertisement, a business card, a
4-32 letterhead, stationery, a website, or an online video, in reference
4-33 to a person who is not an attorney in order to imply that the person
4-34 is authorized to practice law in the United States;

4-35 (29) [~~(28)~~] delivering or distributing a solicitation
4-36 in connection with a good or service that:

4-37 (A) represents that the solicitation is sent on
4-38 behalf of a governmental entity when it is not; or
4-39 (B) resembles a governmental notice or form that
4-40 represents or implies that a criminal penalty may be imposed if the
4-41 recipient does not remit payment for the good or service;

4-42 (30) [~~(29)~~] delivering or distributing a solicitation
4-43 in connection with a good or service that resembles a check or other
4-44 negotiable instrument or invoice, unless the portion of the
4-45 solicitation that resembles a check or other negotiable instrument
4-46 or invoice includes the following notice, clearly and conspicuously
4-47 printed in at least 18-point type:
4-48 "SPECIMEN-NON-NEGOTIABLE";

4-49 (31) [~~(30)~~] in the production, sale, distribution, or
4-50 promotion of a synthetic substance that produces and is intended to
4-51 produce an effect when consumed or ingested similar to, or in excess
4-52 of, the effect of a controlled substance or controlled substance
4-53 analogue, as those terms are defined by Section [481.002](#), Health and
4-54 Safety Code:

4-55 (A) making a deceptive representation or
4-56 designation about the synthetic substance; or
4-57 (B) causing confusion or misunderstanding as to
4-58 the effects the synthetic substance causes when consumed or
4-59 ingested; or

4-60 (32) [~~(31)~~] a licensed public insurance adjuster
4-61 directly or indirectly soliciting employment, as defined by Section
4-62 [38.01](#), Penal Code, for an attorney, or a licensed public insurance
4-63 adjuster entering into a contract with an insured for the primary
4-64 purpose of referring the insured to an attorney without the intent
4-65 to actually perform the services customarily provided by a licensed
4-66 public insurance adjuster, provided that this subdivision may not
4-67 be construed to prohibit a licensed public insurance adjuster from
4-68 recommending a particular attorney to an insured.

4-69 SECTION 3.02. Section [17.461](#), Business & Commerce Code, is

5-1 transferred to Subchapter D, Chapter 32, Penal Code, and
5-2 redesignated as Section 32.55, Penal Code, to read as follows:

5-3 Sec. 32.55 [~~17.461~~]. PYRAMID PROMOTIONAL SCHEME. (a) In
5-4 this section:

5-5 (1) "Compensation" means payment of money, a financial
5-6 benefit, or another thing of value. The term does not include
5-7 payment based on sale of a product to a person, including a
5-8 participant, who purchases the product for actual use or
5-9 consumption.

5-10 (2) "Consideration" means the payment of cash or the
5-11 purchase of a product. The term does not include:

5-12 (A) a purchase of a product furnished at cost to
5-13 be used in making a sale and not for resale;

5-14 (B) a purchase of a product subject to a
5-15 repurchase agreement that complies with Subsection (b); or

5-16 (C) time and effort spent in pursuit of a sale or
5-17 in a recruiting activity.

5-18 (3) "Participate" means to contribute money into a
5-19 pyramid promotional scheme without promoting, organizing, or
5-20 operating the scheme.

5-21 (4) "Product" means a good, a service, or intangible
5-22 property of any kind.

5-23 (5) "Promoting a pyramid promotional scheme" means:

5-24 (A) inducing or attempting to induce one or more
5-25 other persons to participate in a pyramid promotional scheme; or

5-26 (B) assisting another person in inducing or
5-27 attempting to induce one or more other persons to participate in a
5-28 pyramid promotional scheme, including by providing references.

5-29 (6) "Pyramid promotional scheme" means a plan or
5-30 operation by which a person gives consideration for the opportunity
5-31 to receive compensation that is derived primarily from a person's
5-32 introduction of other persons to participate in the plan or
5-33 operation rather than from the sale of a product by a person
5-34 introduced into the plan or operation.

5-35 (b) To qualify as a repurchase agreement for the purposes of
5-36 Subsection (a)(2)(B), an agreement must be an enforceable agreement
5-37 by the seller to repurchase, on written request of the purchaser and
5-38 not later than the first anniversary of the purchaser's date of
5-39 purchase, all unencumbered products that are in an unused,
5-40 commercially resalable condition at a price not less than 90
5-41 percent of the amount actually paid by the purchaser for the
5-42 products being returned, less any consideration received by the
5-43 purchaser for purchase of the products being returned. A product
5-44 that is no longer marketed by the seller is considered resalable if
5-45 the product is otherwise in an unused, commercially resalable
5-46 condition and is returned to the seller not later than the first
5-47 anniversary of the purchaser's date of purchase, except that the
5-48 product is not considered resalable if before the purchaser
5-49 purchased the product it was clearly disclosed to the purchaser
5-50 that the product was sold as a nonreturnable, discontinued,
5-51 seasonal, or special promotion item.

5-52 (c) A person commits an offense if the person contrives,
5-53 prepares, establishes, operates, advertises, sells, or promotes a
5-54 pyramid promotional scheme. An offense under this subsection is a
5-55 state jail felony.

5-56 (d) It is not a defense to prosecution for an offense under
5-57 this section that the pyramid promotional scheme involved both a
5-58 franchise to sell a product and the authority to sell additional
5-59 franchises if the emphasis of the scheme is on the sale of
5-60 additional franchises.

5-61 SECTION 3.03. Sections 522.001 and 522.002, Business &
5-62 Commerce Code, are transferred to Subchapter D, Chapter 32, Penal
5-63 Code, redesignated as Section 32.511, Penal Code, and amended to
5-64 read as follows:

5-65 Sec. 32.511 [~~522.001~~]. IDENTITY THEFT BY ELECTRONIC DEVICE
5-66 [DEFINITIONS]. (a) In this section [~~chapter~~]:

5-67 (1) "Payment card" means a credit card, debit card,
5-68 check card, or other card that is issued to an authorized user to
5-69 purchase or obtain goods, services, money, or any other thing of

6-1 value.

6-2 (2) "Re-encoder" means an electronic device that can
6-3 be used to transfer encoded information from a magnetic strip on a
6-4 payment card onto the magnetic strip of a different payment card.

6-5 (3) "Scanning device" means an electronic device used
6-6 to access, read, scan, or store information encoded on the magnetic
6-7 strip of a payment card.

6-8 (b) [~~Sec. 522.002. OFFENSE; PENALTY.~~ (a)] A person
6-9 commits an offense if the person uses a scanning device or
6-10 re-encoder to access, read, scan, store, or transfer information
6-11 encoded on the magnetic strip of a payment card without the consent
6-12 of an authorized user of the payment card and with intent to harm or
6-13 defraud another.

6-14 (c) [~~(b)~~] An offense under this section is a Class B
6-15 misdemeanor, except that the offense is a state jail felony if the
6-16 information accessed, read, scanned, stored, or transferred was
6-17 protected health information as defined by the Health Insurance
6-18 Portability and Accountability Act and Privacy Standards, as
6-19 defined by Section 181.001, Health and Safety Code.

6-20 (d) [~~(c)~~] If conduct that constitutes an offense under this
6-21 section also constitutes an offense under any other law, the actor
6-22 may be prosecuted under this section or the other law.

6-23 SECTION 3.04. Article 18.18(g), Code of Criminal Procedure,
6-24 is amended to read as follows:

6-25 (g) For purposes of this article:

6-26 (1) "criminal instrument" has the meaning defined in
6-27 the Penal Code;

6-28 (2) "gambling device or equipment, altered gambling
6-29 equipment or gambling paraphernalia" has the meaning defined in the
6-30 Penal Code;

6-31 (3) "prohibited weapon" has the meaning defined in the
6-32 Penal Code;

6-33 (4) "dog-fighting equipment" means:

6-34 (A) equipment used for training or handling a
6-35 fighting dog, including a harness, treadmill, cage, decoy, pen,
6-36 house for keeping a fighting dog, feeding apparatus, or training
6-37 pen;

6-38 (B) equipment used for transporting a fighting
6-39 dog, including any automobile, or other vehicle, and its
6-40 appurtenances which are intended to be used as a vehicle for
6-41 transporting a fighting dog;

6-42 (C) equipment used to promote or advertise an
6-43 exhibition of dog fighting, including a printing press or similar
6-44 equipment, paper, ink, or photography equipment; or

6-45 (D) a dog trained, being trained, or intended to
6-46 be used to fight with another dog;

6-47 (5) "obscene device" and "obscene" have the meanings
6-48 assigned by Section 43.21, Penal Code;

6-49 (6) "re-encoder" has the meaning assigned by Section
6-50 32.511, Penal [~~522.001, Business & Commerce~~] Code;

6-51 (7) "scanning device" has the meaning assigned by
6-52 Section 32.511, Penal [~~522.001, Business & Commerce~~] Code; and

6-53 (8) "obscene material" and "child pornography"
6-54 include digital images and the media and equipment on which those
6-55 images are stored.

6-56 SECTION 3.05. Article 59.01(2), Code of Criminal Procedure,
6-57 is amended to read as follows:

6-58 (2) "Contraband" means property of any nature,
6-59 including real, personal, tangible, or intangible, that is:

6-60 (A) used in the commission of:

6-61 (i) any first or second degree felony under
6-62 the Penal Code;

6-63 (ii) any felony under Section 15.031(b),
6-64 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
6-65 33A, or 35, Penal Code;

6-66 (iii) any felony under The Securities Act
6-67 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

6-68 (iv) any offense under Chapter 49, Penal
6-69 Code, that is punishable as a felony of the third degree or state

7-1 jail felony, if the defendant has been previously convicted three
7-2 times of an offense under that chapter;
7-3 (B) used or intended to be used in the commission
7-4 of:
7-5 (i) any felony under Chapter 481, Health
7-6 and Safety Code (Texas Controlled Substances Act);
7-7 (ii) any felony under Chapter 483, Health
7-8 and Safety Code;
7-9 (iii) a felony under Chapter 151, Finance
7-10 Code;
7-11 (iv) any felony under Chapter 34, Penal
7-12 Code;
7-13 (v) a Class A misdemeanor under Subchapter
7-14 B, Chapter 365, Health and Safety Code, if the defendant has been
7-15 previously convicted twice of an offense under that subchapter;
7-16 (vi) any felony under Chapter 32, Human
7-17 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
7-18 involves the state Medicaid program;
7-19 (vii) a Class B misdemeanor under Section
7-20 32.511, Penal [~~Chapter 522, Business & Commerce~~] Code;
7-21 (viii) a Class A misdemeanor under Section
7-22 306.051, Business & Commerce Code;
7-23 (ix) any offense under Section 42.10, Penal
7-24 Code;
7-25 (x) any offense under Section 46.06(a)(1)
7-26 or 46.14, Penal Code;
7-27 (xi) any offense under Chapter 71, Penal
7-28 Code;
7-29 (xii) any offense under Section 20.05 or
7-30 20.06, Penal Code; or
7-31 (xiii) an offense under Section 326.002,
7-32 Business & Commerce Code;
7-33 (C) the proceeds gained from the commission of a
7-34 felony listed in Paragraph (A) or (B) of this subdivision, a
7-35 misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of
7-36 this subdivision, or a crime of violence;
7-37 (D) acquired with proceeds gained from the
7-38 commission of a felony listed in Paragraph (A) or (B) of this
7-39 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
7-40 or (xi) of this subdivision, or a crime of violence;
7-41 (E) used to facilitate or intended to be used to
7-42 facilitate the commission of a felony under Section 15.031 or
7-43 43.25, Penal Code; or
7-44 (F) used to facilitate or intended to be used to
7-45 facilitate the commission of a felony under Section 20A.02 or
7-46 Chapter 43, Penal Code.
7-47 SECTION 3.06. Sections 557.001 and 557.011, Government
7-48 Code, are transferred to Chapter 40, Penal Code, as added by this
7-49 Act, redesignated as Sections 40.01 and 40.02, Penal Code,
7-50 respectively, and amended to read as follows:
7-51 Sec. 40.01 [~~557.001~~]. SEDITION. (a) A person commits an
7-52 offense if the person knowingly:
7-53 (1) commits, attempts to commit, or conspires with one
7-54 or more persons to commit an act intended to overthrow, destroy, or
7-55 alter the constitutional form of government of this state or of any
7-56 political subdivision of this state by force or violence;
7-57 (2) under circumstances that constitute a clear and
7-58 present danger to the security of this state or a political
7-59 subdivision of this state, advocates, advises, or teaches or
7-60 conspires with one or more persons to advocate, advise, or teach a
7-61 person to commit or attempt to commit an act described in
7-62 Subdivision (1); or
7-63 (3) participates, with knowledge of the nature of the
7-64 organization, in the management of an organization that engages in
7-65 or attempts to engage in an act intended to overthrow, destroy, or
7-66 alter the constitutional form of government of this state or of any
7-67 political subdivision of this state by force or violence.
7-68 (b) An offense under this section is a felony of the second
7-69 degree [~~punishable by~~].

8-1 ~~[(1) a fine not to exceed \$20,000,~~
 8-2 ~~[(2) confinement in the Texas Department of Criminal~~
 8-3 ~~Justice for a term of not less than one year or more than 20 years,~~
 8-4 ~~or~~
 8-5 ~~[(3) both fine and imprisonment].~~

8-6 (c) A person convicted of an offense under this section may
 8-7 not receive community supervision under Chapter 42A, Code of
 8-8 Criminal Procedure.

8-9 Sec. 40.02 ~~[557.011]~~. SABOTAGE. (a) A person commits an
 8-10 offense if the person, with the intent to injure the United States,
 8-11 this state, or any facility or property used for national defense
 8-12 sabotages or attempts to sabotage any property or facility used or
 8-13 to be used for national defense.

8-14 (b) An offense under this section is a felony of the second
 8-15 degree ~~[punishable by confinement in the Texas Department of~~
 8-16 ~~Criminal Justice for a term of not less than two years or more than~~
 8-17 ~~20 years].~~

8-18 (c) If conduct constituting an offense under this section
 8-19 also constitutes an offense under another provision of law, the
 8-20 actor may be prosecuted under both sections.

8-21 (d) In this section, "sabotage" means to wilfully and
 8-22 maliciously damage or destroy property.

8-23 SECTION 3.07. Section 557.002, Government Code, is amended
 8-24 to read as follows:

8-25 Sec. 557.002. DISQUALIFICATION. A person who is finally
 8-26 convicted of an offense under Section 40.01, Penal Code, ~~[557.001]~~
 8-27 may not hold office or a position of profit, trust, or employment
 8-28 with the state or any political subdivision of the state.

8-29 SECTION 3.08. Section 3101.010(b), Government Code, is
 8-30 amended to read as follows:

8-31 (b) An offense under this section is a misdemeanor and on
 8-32 conviction is punishable by~~+~~

8-33 ~~[(1)] a fine of not less than \$5 or more than \$300~~+~~~~
 8-34 ~~[(2) confinement in the county jail for a term not to~~
 8-35 ~~exceed three months, or~~
 8-36 ~~[(3) both a fine and confinement].~~

8-37 SECTION 3.09. Section 615.002(e), Local Government Code, is
 8-38 amended to read as follows:

8-39 (e) A person commits an offense if the person violates a
 8-40 parking rule adopted under this section. An offense under this
 8-41 subsection is a Class C misdemeanor ~~[punishable by a fine of not~~
 8-42 ~~less than \$1 nor more than \$20].~~

8-43 SECTION 3.10. Section 11.074(b), Natural Resources Code, is
 8-44 amended to read as follows:

8-45 (b) Any owner of stock or a [his] manager, agent, employee,
 8-46 or servant of the owner who fences, uses, occupies, or appropriates
 8-47 by herding or line-riding any portion of the land covered by
 8-48 Subsection (a) ~~[of this section]~~ without a lease for the land
 8-49 commits an offense. An offense under this section is a Class C
 8-50 misdemeanor ~~[, on conviction, shall be fined not less than \$100 nor~~
 8-51 ~~more than \$1,000 and confined in the county jail for not less than~~
 8-52 ~~three months nor more than two years].~~ Each day for which a
 8-53 violation continues constitutes a separate offense.

8-54 SECTION 3.11. Section 88.134(b), Natural Resources Code, is
 8-55 amended to read as follows:

8-56 (b) A person who violates any ~~[other]~~ provision of this
 8-57 chapter other than those covered by Subsection (a), a person who
 8-58 fails to comply with any of the other terms of this chapter, a
 8-59 person who fails to comply with the terms of a rule or order adopted
 8-60 by the governmental agency under the terms of this chapter, or a
 8-61 person who violates any of the rules or orders of the governmental
 8-62 agency adopted under the provisions of this chapter commits an
 8-63 offense. An offense under this subsection is a felony of the third
 8-64 degree ~~[on conviction is considered guilty of a felony and on~~
 8-65 ~~conviction shall be punished by imprisonment in the Texas~~
 8-66 ~~Department of Criminal Justice for a term of not less than two nor~~
 8-67 ~~more than four years].~~

8-68 SECTION 3.12. Section 114.102(b), Natural Resources Code,
 8-69 is amended to read as follows:

9-1 (b) An offense under this section is a Class A misdemeanor
9-2 [~~felony of the third degree~~].

9-3 SECTION 3.13. Section 264.151(a), Occupations Code, is
9-4 amended to read as follows:

9-5 (a) A person commits an offense if the person violates
9-6 Section 256.001. An offense under this subsection is a felony of
9-7 the third degree. [~~Each day of a violation is a separate offense.~~]

9-8 SECTION 3.14. Section 266.303, Occupations Code, is amended
9-9 by amending Subsection (b) and adding Subsection (b-1) to read as
9-10 follows:

9-11 (b) An offense for a violation of Section 266.151 is a Class
9-12 A misdemeanor, except that the offense is a felony of the third
9-13 degree if it is shown on the trial of the offense that the defendant
9-14 has previously been convicted of an offense for a violation of
9-15 Section 266.151.

9-16 (b-1) An offense for a violation of [~~or~~] Section 266.301(b)
9-17 is a Class A misdemeanor, except that the offense is a felony of the
9-18 third degree if it is shown on the trial of the offense that the
9-19 defendant has previously been convicted of an offense for a
9-20 violation of Section 266.301(b).

9-21 SECTION 3.15. Section 1701.553(b), Occupations Code, is
9-22 amended to read as follows:

9-23 (b) An offense under Subsection (a) is a Class A misdemeanor
9-24 [~~state jail felony~~].

9-25 SECTION 3.16. Subchapter E, Chapter 1802, Occupations Code,
9-26 is amended by adding Section 1802.2025 to read as follows:

9-27 Sec. 1802.2025. FRIVOLOUS CLAIMS; CIVIL PENALTY. (a) A
9-28 person may not, for personal benefit or to harm another:

9-29 (1) institute a claim under this chapter in which the
9-30 person knows the person has no interest; or

9-31 (2) institute a frivolous suit or claim that the
9-32 person knows is false.

9-33 (b) A person who violates Subsection (a) is subject to a
9-34 civil penalty under Section 51.352.

9-35 SECTION 3.17. Section 2155.002(d), Occupations Code, is
9-36 amended to read as follows:

9-37 (d) An offense under Subsection (a) or (c) is a misdemeanor
9-38 punishable by [~~+~~

9-39 [~~(1)~~] a fine of not less than \$25 or more than \$100 [~~+~~

9-40 [~~(2)~~] ~~confinement in jail for a term not to exceed 30~~
9-41 ~~days; or~~

9-42 [~~(3)~~] ~~both a fine and confinement~~].

9-43 SECTION 3.18. Section 2156.006, Occupations Code, is
9-44 amended to read as follows:

9-45 Sec. 2156.006. FORFEITURE OF LEASE. A theater's lessee or a
9-46 lessee's assigns forfeit the lease and any rights and privileges
9-47 under the lease if the person [~~+~~

9-48 [~~(1)~~] does not comply with the law governing
9-49 theaters [~~+~~ ~~or~~

9-50 [~~(2)~~] ~~is convicted of an offense under Section~~
9-51 ~~2156.005~~].

9-52 SECTION 3.19. Section 32.153(a), Parks and Wildlife Code,
9-53 is amended to read as follows:

9-54 (a) A person commits an offense if the person violates:

9-55 (1) Section 32.051;

9-56 (2) [~~Section 32.053(b)+~~

9-57 [~~(3)~~] Section 32.056;

9-58 (3) [~~(4)~~] ~~Section 32.057(d)+~~

9-59 [~~(5)~~] Section 32.101;

9-60 (4) [~~(6)~~] Section 32.104;

9-61 (5) [~~(7)~~] Section 32.105;

9-62 (6) [~~(8)~~] Section 32.106;

9-63 (7) [~~(9)~~] Section 32.107; or

9-64 (8) [~~(10)~~] Section 32.108.

9-65 SECTION 3.20. Section 62.013, Parks and Wildlife Code, is
9-66 amended to read as follows:

9-67 Sec. 62.013. PENALTIES. (a) Except as provided by
9-68 Subsections (b), (b-1), and (c) of this section, a person who
9-69 violates a provision of this subchapter commits an offense that is a

10-1 Class C Parks and Wildlife Code misdemeanor.

10-2 (b) A person who violates Section 62.003, 62.004, [62.005,]

10-3 62.0065, 62.011(c), or 350.001 or a rule adopted under Section

10-4 62.0065 commits an offense that is a Class A Parks and Wildlife Code

10-5 misdemeanor, unless it is shown at the trial of the defendant for a

10-6 violation of that section or rule, as appropriate, that the

10-7 defendant has been convicted one or more times before the trial date

10-8 of a violation of that section or rule, as appropriate, in which

10-9 case the offense is a Parks and Wildlife Code state jail felony.

10-10 (b-1) A person who violates Section 62.005 commits an

10-11 offense that is a:

10-12 (1) Class C Parks and Wildlife Code misdemeanor if the

10-13 person commits the offense recklessly;

10-14 (2) Class A Parks and Wildlife Code misdemeanor if the

10-15 person intentionally or knowingly commits the offense; or

10-16 (3) Parks and Wildlife Code state jail felony if it is

10-17 shown at the trial of the defendant for a violation of that section

10-18 that the defendant has been convicted one or more times before the

10-19 trial date of a violation of that section.

10-20 (c) In addition to the punishments provided in Subsections

10-21 (a), ~~[and]~~ (b), and (b-1), a person who violates Section 62.003,

10-22 62.004, 62.005, 62.0065, 62.011(c), or 350.001 or a rule adopted

10-23 under Section 62.0065 is punishable by the revocation or suspension

10-24 under Section 12.5015 of hunting and fishing licenses and permits.

10-25 SECTION 3.21. Section 76.040, Parks and Wildlife Code, is

10-26 amended by amending Subsection (b) and adding Subsection (b-1) to

10-27 read as follows:

10-28 (b) A person who violates Section 76.037 ~~[or Section 76.038~~

10-29 ~~of this code]~~ commits an offense that is a Class B Parks and

10-30 Wildlife Code misdemeanor.

10-31 (b-1) A person who violates Section 76.038 commits an

10-32 offense that is a:

10-33 (1) Class C Parks and Wildlife Code misdemeanor if the

10-34 person commits the offense recklessly; or

10-35 (2) Class B Parks and Wildlife Code misdemeanor if the

10-36 person intentionally or knowingly commits the offense.

10-37 SECTION 3.22. Section 76.118, Parks and Wildlife Code, is

10-38 amended by amending Subsections (a), (b), and (c) and adding

10-39 Subsection (a-1) to read as follows:

10-40 (a) Except as provided in Subsections (a-1), (b), and (c) of

10-41 this section, a person who violates a provision of this subchapter

10-42 or a regulation of the commission issued under this subchapter

10-43 commits an offense that is a Class C Parks and Wildlife Code

10-44 misdemeanor.

10-45 (a-1) A person who violates Section 76.101 or 76.109 or a

10-46 regulation of the commission issued under one of those sections

10-47 commits an offense that is a:

10-48 (1) Class C Parks and Wildlife Code misdemeanor if the

10-49 person commits the offense recklessly; or

10-50 (2) Class B Parks and Wildlife Code misdemeanor if the

10-51 person intentionally or knowingly commits the offense.

10-52 (b) A person who violates Section ~~[76.101,]~~ 76.107 ~~[, or~~

10-53 ~~76.109]~~ or a regulation of the commission issued under that section

10-54 ~~[one of those sections]~~ commits an offense that is a Class B Parks

10-55 and Wildlife Code misdemeanor.

10-56 (c) A person who violates Section 76.116, or at the same

10-57 time violates Sections 76.109 and 76.116, commits an offense that

10-58 is a:

10-59 (1) Class B Parks and Wildlife Code misdemeanor if the

10-60 person commits the offense recklessly; or

10-61 (2) Class A Parks and Wildlife Code misdemeanor if the

10-62 person intentionally or knowingly commits the offense.

10-63 SECTION 3.23. Section 77.061(b), Parks and Wildlife Code,

10-64 is amended to read as follows:

10-65 (b) Notwithstanding the provisions of Subchapter E, Chapter

10-66 12, of this code, a person who violates Subdivision (1) of

10-67 Subsection (a) of this section or Section 77.024 of this code

10-68 commits an offense that is a:

10-69 (1) Class C Parks and Wildlife Code misdemeanor if the

11-1 person commits the offense recklessly; or
 11-2 (2) Class B Parks and Wildlife Code misdemeanor if the
 11-3 person intentionally or knowingly commits the offense [and on
 11-4 conviction is punishable by a fine of not less than \$2,500 nor more
 11-5 than \$5,000, by confinement in the county jail for not less than six
 11-6 months nor more than one year, or by both].

11-7 SECTION 3.24. Section 19.03(a), Penal Code, is amended to
 11-8 read as follows:

11-9 (a) A person commits an offense if the person commits murder
 11-10 as defined under Section 19.02(b)(1) and:

11-11 (1) the person murders a peace officer or fireman who
 11-12 is acting in the lawful discharge of an official duty and who the
 11-13 person knows is a peace officer or fireman;

11-14 (2) the person intentionally commits the murder in the
 11-15 course of committing or attempting to commit kidnapping, burglary,
 11-16 robbery, aggravated sexual assault, arson, obstruction or
 11-17 retaliation, sabotage, or terroristic threat under Section
 11-18 22.07(a)(1), (3), (4), (5), or (6);

11-19 (3) the person commits the murder for remuneration or
 11-20 the promise of remuneration or employs another to commit the murder
 11-21 for remuneration or the promise of remuneration;

11-22 (4) the person commits the murder while escaping or
 11-23 attempting to escape from a penal institution;

11-24 (5) the person, while incarcerated in a penal
 11-25 institution, murders another:

11-26 (A) who is employed in the operation of the penal
 11-27 institution; or

11-28 (B) with the intent to establish, maintain, or
 11-29 participate in a combination or in the profits of a combination;

11-30 (6) the person:

11-31 (A) while incarcerated for an offense under this
 11-32 section or Section 19.02, murders another; or

11-33 (B) while serving a sentence of life imprisonment
 11-34 or a term of 99 years for an offense under Section 20.04, 22.021, or
 11-35 29.03, murders another;

11-36 (7) the person murders more than one person:

11-37 (A) during the same criminal transaction; or

11-38 (B) during different criminal transactions but
 11-39 the murders are committed pursuant to the same scheme or course of
 11-40 conduct;

11-41 (8) the person murders an individual under 10 years of
 11-42 age; or

11-43 (9) the person murders another person in retaliation
 11-44 for or on account of the service or status of the other person as a
 11-45 judge or justice of the supreme court, the court of criminal
 11-46 appeals, a court of appeals, a district court, a criminal district
 11-47 court, a constitutional county court, a statutory county court, a
 11-48 justice court, or a municipal court.

11-49 SECTION 3.25. Section 37.10(c)(2), Penal Code, is amended
 11-50 to read as follows:

11-51 (2) An offense under this section is a felony of the
 11-52 third degree if it is shown on the trial of the offense that the
 11-53 governmental record was:

11-54 (A) a public school record, report, or assessment
 11-55 instrument required under Chapter 39, Education Code, a public
 11-56 school record, form, report, or budget required under Chapter 42,
 11-57 Education Code, or a rule adopted under that chapter, data reported
 11-58 for a school district or open-enrollment charter school to the
 11-59 Texas Education Agency through the Public Education Information
 11-60 Management System (PEIMS) described by Section 42.006, Education
 11-61 Code, under a law or rule requiring that reporting, or a license,
 11-62 certificate, permit, seal, title, letter of patent, or similar
 11-63 document issued by government, by another state, or by the United
 11-64 States, unless the actor's intent is to defraud or harm another, in
 11-65 which event the offense is a felony of the second degree;

11-66 (B) a written report of a medical, chemical,
 11-67 toxicological, ballistic, or other expert examination or test
 11-68 performed on physical evidence for the purpose of determining the
 11-69 connection or relevance of the evidence to a criminal action;

12-1 (C) a written report of the certification,
 12-2 inspection, or maintenance record of an instrument, apparatus,
 12-3 implement, machine, or other similar device used in the course of an
 12-4 examination or test performed on physical evidence for the purpose
 12-5 of determining the connection or relevance of the evidence to a
 12-6 criminal action; or

12-7 (D) a search warrant issued by a magistrate.
 12-8 SECTION 3.26. Title 8, Penal Code, is amended by adding
 12-9 Chapter 40, and a heading is added to that chapter to read as
 12-10 follows:

12-11 CHAPTER 40. SEDITION AND SABOTAGE

12-12 SECTION 3.27. Section 154.517, Tax Code, is amended to read
 12-13 as follows:

12-14 Sec. 154.517. FELONY OR MISDEMEANOR. (a) An offense under
 12-15 Section [Sections] 154.511, 154.512, 154.514, 154.515, or
 12-16 [through] 154.516 is a felony of the third degree.

12-17 (b) An offense under Section 154.513 is a Class A
 12-18 misdemeanor unless it is shown on the trial of the offense that the
 12-19 person has been previously convicted of an offense under that
 12-20 section, in which event the offense is a felony of the third degree.

12-21 SECTION 3.28. Section 155.208, Tax Code, is amended to read
 12-22 as follows:

12-23 Sec. 155.208. MISDEMEANOR. (a) An offense under Section
 12-24 155.202, 155.204, 155.205, 155.206, or 155.207 [Sections
 12-25 155.202-155.207] is a Class A misdemeanor.

12-26 (b) An offense under Section 155.203 is a Class C
 12-27 misdemeanor unless it is shown on the trial of the offense that the
 12-28 person has been previously convicted of an offense under that
 12-29 section, in which event the offense is a Class A misdemeanor.

12-30 SECTION 3.29. Section 155.213, Tax Code, is amended to read
 12-31 as follows:

12-32 Sec. 155.213. FELONY OR MISDEMEANOR. (a) An offense under
 12-33 Section 155.210 or 155.212 [Sections 155.209-155.212] is a felony
 12-34 of the third degree.

12-35 (b) An offense under Section 155.209 is a Class A
 12-36 misdemeanor unless it is shown on the trial of the offense that the
 12-37 person has been previously convicted of an offense under that
 12-38 section, in which event the offense is a felony of the third degree.

12-39 (c) An offense under Section 155.211 is a Class A
 12-40 misdemeanor unless it is shown on the trial of the offense that the
 12-41 person has been previously convicted of an offense under that
 12-42 section, in which event the offense is a felony of the third degree.

12-43 SECTION 3.30. Section 15.030(c), Utilities Code, is amended
 12-44 to read as follows:

12-45 (c) An offense under this section is a Class A misdemeanor
 12-46 [felony of the third degree].

12-47 SECTION 3.31. Section 105.024(b), Utilities Code, is
 12-48 amended to read as follows:

12-49 (b) An offense under this section is a Class A misdemeanor
 12-50 [felony of the third degree].

12-51 SECTION 3.32. The following laws are repealed:

- 12-52 (1) Section 101.64, Alcoholic Beverage Code;
- 12-53 (2) Sections 17.22, 17.30, 17.31, and 204.005,
- 12-54 Business & Commerce Code;
- 12-55 (3) Chapter 504, Business & Commerce Code;
- 12-56 (4) the heading to Chapter 522, Business & Commerce
- 12-57 Code;
- 12-58 (5) Section 44.051, Education Code;
- 12-59 (6) Sections 59.002, 89.101, 119.202, 122.251, and
- 12-60 199.001, Finance Code;
- 12-61 (7) the heading to Subchapter B, Chapter 557,
- 12-62 Government Code;
- 12-63 (8) Sections 557.012 and 557.013, Government Code;
- 12-64 (9) Sections 52.021 and 52.022, Labor Code;
- 12-65 (10) Sections 205.401(b), 1802.302, 1805.103,
- 12-66 2156.004, 2156.005, and 2158.003, Occupations Code;
- 12-67 (11) Sections 32.053(b) and 32.057(d), Parks and
- 12-68 Wildlife Code;
- 12-69 (12) Articles 4005a, 4006a, 4006b, 4015d, 4015e, and

13-1 5196b, Revised Statutes;
13-2 (13) Chapter 281 (H.B. 2680), Acts of the 73rd
13-3 Legislature, Regular Session, 1993 (Article 4413(47e-1), Vernon's
13-4 Texas Civil Statutes); and

13-5 (14) Chapter 487 (H.B. 376), Acts of the 56th
13-6 Legislature, Regular Session, 1959 (Article 9010, Vernon's Texas
13-7 Civil Statutes).

13-8 ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE

13-9 SECTION 4.01. The changes in law made by this Act apply only
13-10 to an offense committed on or after the effective date of this Act.
13-11 An offense committed before the effective date of this Act is
13-12 governed by the law in effect on the date the offense was committed,
13-13 and the former law is continued in effect for that purpose. For
13-14 purposes of this section, an offense was committed before the
13-15 effective date of this Act if any element of the offense occurred
13-16 before that date.

13-17 SECTION 4.02. To the extent of any conflict, this Act
13-18 prevails over another Act of the 85th Legislature, Regular Session,
13-19 2017, relating to nonsubstantive additions to and corrections in
13-20 enacted codes.

13-21 SECTION 4.03. This Act takes effect September 1, 2017.

13-22

* * * * *