

House Bill 1178
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 30.01, Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

SECTION 2. Section 30.02, Penal Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Except as provided in Subsection (c-1) or (d), an offense under this section is a:

(1) state jail felony if committed in a building other than a habitation; or

(2) felony of the second degree if committed in a habitation.

(c-1) An offense under this section is a felony of the third degree if:

(1) the premises are a building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, or nursing facility; and

(2) the person entered or remained concealed in that building with intent to commit a theft of a controlled substance.

No equivalent provision.

SENATE VERSION (CS)

SECTION 1. Section 30.01, Penal Code, is amended by adding Subdivisions (4) and (5) to read as follows:

(4) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(5) "Wholesale distributor of prescription drugs" means a wholesale distributor, as defined by Section 431.401, Health and Safety Code.

SECTION 2. Section 30.02, Penal Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Except as provided in Subsection (c-1) or (d), an offense under this section is a:

(1) state jail felony if committed in a building other than a habitation; or

(2) felony of the second degree if committed in a habitation.

(c-1) An offense under this section is a felony of the third degree if:

(1) the premises are a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; and

(2) the person entered or remained concealed in that building with intent to commit a theft of a controlled substance.

SECTION 3. Section 30.04(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a Class A misdemeanor, except that:

(1) the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of

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SECTION 3. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$100;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$100 or more but less than \$750;

(B) the value of the property stolen is less than \$100 and the defendant has previously been convicted of any grade of theft; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$750 or more but less than \$2,500;

the offense that the defendant has been previously convicted of an offense under this section; ~~and~~

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

(A) it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(B) the vehicle or part of the vehicle broken into or entered is a rail car; and

(3) the offense is a felony of the third degree if:

(A) the vehicle broken into or entered is owned or operated by a wholesale distributor of prescription drugs; and

(B) the actor breaks into or enters that vehicle with the intent to commit theft of a controlled substance.

SECTION 4. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$100;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$100 or more but less than \$750;

(B) the value of the property stolen is less than \$100 and the defendant has previously been convicted of any grade of theft; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$750 or more but less than \$2,500;

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(4) a state jail felony if:

(A) the value of the property stolen is \$2,500 or more but less than \$30,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$30,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$2,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is:

(i) aluminum;

(ii) bronze;

(iii) copper; or

(iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$30,000 or more but less than \$150,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$150,000; ~~or~~

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$150,000; or

(C) a controlled substance, regardless of the value of the controlled substance stolen;

SENATE VERSION (CS)

(4) a state jail felony if:

(A) the value of the property stolen is \$2,500 or more but less than \$30,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$30,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$2,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is:

(i) aluminum;

(ii) bronze;

(iii) copper; or

(iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$30,000 or more but less than \$150,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$150,000; ~~or~~

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$150,000; or

(C) a controlled substance, having a value of less than \$150,000, if stolen from;

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- (6) a felony of the second degree if:
- (A) the value of the property stolen is \$150,000 or more but less than \$300,000; or
 - (B) the value of the property stolen is less than \$300,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or
- (7) a felony of the first degree if the value of the property stolen is \$300,000 or more.

SECTION 4. Section 31.03(h), Penal Code, is amended by adding Subdivision (5) to read as follows:

(5) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

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

SENATE VERSION (CS)

(i) a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; or
(ii) a vehicle owned or operated by a wholesale distributor of prescription drugs;

- (6) a felony of the second degree if:
- (A) the value of the property stolen is \$150,000 or more but less than \$300,000; or
 - (B) the value of the property stolen is less than \$300,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or
- (7) a felony of the first degree if the value of the property stolen is \$300,000 or more.

SECTION 5. Section 31.03(h), Penal Code, is amended by adding Subdivisions (5) and (6) to read as follows:

(5) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(6) "Wholesale distributor of prescription drugs" means a wholesale distributor, as defined by Section 431.401, Health and Safety Code.

SECTION 6. Same as House version.

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

SECTION 7. Same as House version.