

By: Krause

H.B. No. 226

A BILL TO BE ENTITLED

AN ACT

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

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

11 ARTICLE 1. PURPOSE

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

17 ARTICLE 2. COMMISSION TO STUDY CERTAIN PENAL LAWS

18 SECTION 2.01. COMMISSION TO STUDY CERTAIN PENAL LAWS.

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

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

24 (b) The commission shall:

1 (1) evaluate all laws described by Subsection (a) of
2 this section;

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

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

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

15 (1) two members appointed by the governor;

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

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

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

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

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

1 interests.

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

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

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

8 (h) Not later than November 1, 2020, the commission shall
9 report the commission's findings and recommendations to the
10 governor, the lieutenant governor, the speaker of the house of
11 representatives, the Supreme Court of Texas, the Texas Court of
12 Criminal Appeals, and the standing committees of the house of
13 representatives and the senate with primary jurisdiction over
14 criminal justice. The commission shall include in its
15 recommendations any specific statutes that the commission
16 recommends repealing or amending.

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

23 SECTION 2.03. ABOLITION OF COMMISSION. The commission is
24 abolished and this article expires December 31, 2020.

25 ARTICLE 3. MISCELLANEOUS AMENDMENTS RELATING TO CRIMINAL OFFENSES

26 SECTION 3.01. Section 17.46(b), Business & Commerce Code,
27 as amended by Chapters 324 (S.B. 1488), 858 (H.B. 2552), and 967

1 (S.B. 2065), Acts of the 85th Legislature, Regular Session, 2017,
2 is reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (20) representing that a guaranty or warranty confers

1 or involves rights or remedies which it does not have or involve,
2 provided, however, that nothing in this subchapter shall be
3 construed to expand the implied warranty of merchantability as
4 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
5 2A.216 to involve obligations in excess of those which are
6 appropriate to the goods;

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

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

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

25 (24) failing to disclose information concerning goods
26 or services which was known at the time of the transaction if such
27 failure to disclose such information was intended to induce the

1 consumer into a transaction into which the consumer would not have
2 entered had the information been disclosed;

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

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

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

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

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

22 (28) using the translation into a foreign language of
23 a title or other word, including "attorney," "immigration
24 consultant," "immigration expert," "lawyer," "licensed," "notary,"
25 and "notary public," in any written or electronic material,
26 including an advertisement, a business card, a letterhead,
27 stationery, a website, or an online video, in reference to a person

1 who is not an attorney in order to imply that the person is
2 authorized to practice law in the United States;

3 (29) delivering or distributing a solicitation in
4 connection with a good or service that:

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

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

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

16 "SPECIMEN-NON-NEGOTIABLE";

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

23 (A) making a deceptive representation or
24 designation about the synthetic substance; or

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

1 (32) a licensed public insurance adjuster directly or
2 indirectly soliciting employment, as defined by Section 38.01,
3 Penal Code, for an attorney, or a licensed public insurance
4 adjuster entering into a contract with an insured for the primary
5 purpose of referring the insured to an attorney without the intent
6 to actually perform the services customarily provided by a licensed
7 public insurance adjuster, provided that this subdivision may not
8 be construed to prohibit a licensed public insurance adjuster from
9 recommending a particular attorney to an insured; ~~[or]~~

10 (33) owning, operating, maintaining, or advertising a
11 massage establishment, as defined by Section 455.001, Occupations
12 Code, that:

13 (A) is not appropriately licensed under Chapter
14 455, Occupations Code, or is not in compliance with the applicable
15 licensing and other requirements of that chapter; or

16 (B) is not in compliance with an applicable local
17 ordinance relating to the licensing or regulation of massage
18 establishments; or

19 (34) ~~[(33)]~~ a warrantor of a vehicle protection
20 product warranty using, in connection with the product, a name that
21 includes "casualty," "surety," "insurance," "mutual," or any other
22 word descriptive of an insurance business, including property or
23 casualty insurance, or a surety business.

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

27 Sec. 32.55 ~~[17.461]~~. PYRAMID PROMOTIONAL SCHEME. (a) In

1 this section:

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

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

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

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

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

15 (3) "Participate" means to contribute money into a
16 pyramid promotional scheme without promoting, organizing, or
17 operating the scheme.

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

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

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

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

26 (6) "Pyramid promotional scheme" means a plan or
27 operation by which a person gives consideration for the opportunity

1 to receive compensation that is derived primarily from a person's
2 introduction of other persons to participate in the plan or
3 operation rather than from the sale of a product by a person
4 introduced into the plan or operation.

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

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

26 (d) It is not a defense to prosecution for an offense under
27 this section that the pyramid promotional scheme involved both a

1 franchise to sell a product and the authority to sell additional
2 franchises if the emphasis of the scheme is on the sale of
3 additional franchises.

4 SECTION 3.03. Sections 522.001 and 522.002, Business &
5 Commerce Code, are transferred to Subchapter D, Chapter 32, Penal
6 Code, redesignated as Section 32.511, Penal Code, and amended to
7 read as follows:

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

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

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

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

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

26 (c) [~~(b)~~] An offense under this section is a Class B
27 misdemeanor, except that the offense is a state jail felony if the

1 information accessed, read, scanned, stored, or transferred was
2 protected health information as defined by the Health Insurance
3 Portability and Accountability Act and Privacy Standards, as
4 defined by Section 181.001, Health and Safety Code.

5 (d) [~~(e)~~] If conduct that constitutes an offense under this
6 section also constitutes an offense under any other law, the actor
7 may be prosecuted under this section or the other law.

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

10 (g) For purposes of this article:

11 (1) "criminal instrument" has the meaning defined in
12 the Penal Code;

13 (2) "gambling device or equipment, altered gambling
14 equipment or gambling paraphernalia" has the meaning defined in the
15 Penal Code;

16 (3) "prohibited weapon" has the meaning defined in the
17 Penal Code;

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

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

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

27 (C) equipment used to promote or advertise an

1 exhibition of dog fighting, including a printing press or similar
2 equipment, paper, ink, or photography equipment; or

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

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

7 (6) "re-encoder" has the meaning assigned by Section
8 32.511, Penal [~~522.001, Business & Commerce~~] Code;

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

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

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

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

18 (A) used in the commission of:

19 (i) any first or second degree felony under
20 the Penal Code;

21 (ii) any felony under Section 15.031(b),
22 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
23 33A, or 35, Penal Code;

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

26 (iv) any offense under Chapter 49, Penal
27 Code, that is punishable as a felony of the third degree or state

1 jail felony, if the defendant has been previously convicted three
2 times of an offense under that chapter;

3 (B) used or intended to be used in the commission
4 of:

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

7 (ii) any felony under Chapter 483, Health
8 and Safety Code;

9 (iii) a felony under Chapter 151, Finance
10 Code;

11 (iv) any felony under Chapter 34, Penal
12 Code;

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

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

19 (vii) an offense [~~a Class B misdemeanor~~]
20 under Section 32.511, Penal [~~Chapter 522, Business & Commerce~~]
21 Code;

22 (viii) a Class A misdemeanor under Section
23 306.051, Business & Commerce Code;

24 (ix) any offense under Section 42.10, Penal
25 Code;

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

1 (xi) any offense under Chapter 71, Penal
2 Code;

3 (xii) any offense under Section 20.05 or
4 20.06, Penal Code; or

5 (xiii) an offense under Section 326.002,
6 Business & Commerce Code;

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

11 (D) acquired with proceeds gained from the
12 commission of a felony listed in Paragraph (A) or (B) of this
13 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
14 or (xi) of this subdivision, or a crime of violence;

15 (E) used to facilitate or intended to be used to
16 facilitate the commission of a felony under Section 15.031 or
17 43.25, Penal Code; or

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

21 SECTION 3.06. Sections 557.001 and 557.011, Government
22 Code, are transferred to Chapter 40, Penal Code, as added by this
23 Act, redesignated as Sections 40.01 and 40.02, Penal Code,
24 respectively, and amended to read as follows:

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

27 (1) commits, attempts to commit, or conspires with one

1 or more persons to commit an act intended to overthrow, destroy, or
2 alter the constitutional form of government of this state or of any
3 political subdivision of this state by force or violence;

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

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

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

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

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

20 ~~or~~

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

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

25 Sec. 40.02 [~~557.011~~]. SABOTAGE. (a) A person commits an
26 offense if the person, with the intent to injure the United States,
27 this state, or any facility or property used for national defense

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

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

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

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

12 SECTION 3.07. Section 557.002, Government Code, is amended
13 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~Department of Criminal Justice for a term of not less than two nor~~
2 ~~more than four years].~~

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

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

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

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

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

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

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

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

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

1 ~~[state jail felony]~~.

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

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

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

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

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

12 SECTION 3.17. Section 2155.002(e), Occupations Code, is
13 amended to read as follows:

14 (e) An offense under this section ~~[Subsection (b)]~~ is a
15 misdemeanor punishable by a fine of not more than \$100.

16 SECTION 3.18. Section 2156.006, Occupations Code, is
17 amended to read as follows:

18 Sec. 2156.006. FORFEITURE OF LEASE. A theater's lessee or a
19 lessee's assigns forfeit the lease and any rights and privileges
20 under the lease if the person~~+~~

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

23 ~~[(2) is convicted of an offense under Section~~
24 ~~2156.005]~~.

25 SECTION 3.19. Section 32.153(a), Parks and Wildlife Code,
26 is amended to read as follows:

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

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

11 SECTION 3.20. Section 62.013, Parks and Wildlife Code, is
12 amended to read as follows:

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

17 (b) A person who violates Section 62.003, 62.004, [~~62.005~~],
18 62.0065, 62.011(c), or 350.001 or a rule adopted under Section
19 62.0065 commits an offense that is a Class A Parks and Wildlife Code
20 misdemeanor, unless it is shown at the trial of the defendant for a
21 violation of that section or rule, as appropriate, that the
22 defendant has been convicted one or more times before the trial date
23 of a violation of that section or rule, as appropriate, in which
24 case the offense is a Parks and Wildlife Code state jail felony.

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

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

1 person commits the offense recklessly;

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

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

8 (c) In addition to the punishments provided in Subsections
9 (a), ~~and~~ (b), and (b-1), a person who violates Section 62.003,
10 62.004, 62.005, 62.0065, 62.011(c), or 350.001 or a rule adopted
11 under Section 62.0065 is punishable by the revocation or suspension
12 under Section 12.5015 of hunting and fishing licenses and permits.

13 SECTION 3.21. Section 76.040, Parks and Wildlife Code, is
14 amended by amending Subsection (b) and adding Subsection (b-1) to
15 read as follows:

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

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

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

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

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

1 (a) Except as provided in Subsections (a-1), (b), (c),
2 (e-2), and (e-3), a person who violates a provision of this
3 subchapter or a regulation of the commission issued under this
4 subchapter commits an offense that is a Class C Parks and Wildlife
5 Code misdemeanor.

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

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

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

13 (b) A person who violates Section [~~76.101,~~] 76.107[~~, or~~
14 ~~76.109~~] or a regulation of the commission issued under that section
15 [~~one of those sections~~] commits an offense that is a Class B Parks
16 and Wildlife Code misdemeanor.

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

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

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

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

26 (b) Notwithstanding the provisions of Subchapter E, Chapter
27 12, of this code, a person who violates Subdivision (1) of

1 Subsection (a) of this section or Section 77.024 of this code
2 commits an offense that is a:

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

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

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

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

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

17 (2) the person intentionally commits the murder in the
18 course of committing or attempting to commit kidnapping, burglary,
19 robbery, aggravated sexual assault, arson, obstruction or
20 retaliation, sabotage, or terroristic threat under Section
21 22.07(a)(1), (3), (4), (5), or (6);

22 (3) the person commits the murder for remuneration or
23 the promise of remuneration or employs another to commit the murder
24 for remuneration or the promise of remuneration;

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

27 (5) the person, while incarcerated in a penal

1 institution, murders another:

2 (A) who is employed in the operation of the penal
3 institution; or

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

6 (6) the person:

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

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

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

13 (A) during the same criminal transaction; or

14 (B) during different criminal transactions but
15 the murders are committed pursuant to the same scheme or course of
16 conduct;

17 (8) the person murders an individual under 10 years of
18 age; or

19 (9) the person murders another person in retaliation
20 for or on account of the service or status of the other person as a
21 judge or justice of the supreme court, the court of criminal
22 appeals, a court of appeals, a district court, a criminal district
23 court, a constitutional county court, a statutory county court, a
24 justice court, or a municipal court.

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

27 (2) An offense under this section is a felony of the

1 third degree if it is shown on the trial of the offense that the
2 governmental record was:

3 (A) a public school record, report, or assessment
4 instrument required under Chapter 39, Education Code, a public
5 school record, form, report, or budget required under Chapter 42,
6 Education Code, or a rule adopted under that chapter, data reported
7 for a school district or open-enrollment charter school to the
8 Texas Education Agency through the Public Education Information
9 Management System (PEIMS) described by Section 42.006, Education
10 Code, under a law or rule requiring that reporting, or a license,
11 certificate, permit, seal, title, letter of patent, or similar
12 document issued by government, by another state, or by the United
13 States, unless the actor's intent is to defraud or harm another, in
14 which event the offense is a felony of the second degree;

15 (B) a written report of a medical, chemical,
16 toxicological, ballistic, or other expert examination or test
17 performed on physical evidence for the purpose of determining the
18 connection or relevance of the evidence to a criminal action;

19 (C) a written report of the certification,
20 inspection, or maintenance record of an instrument, apparatus,
21 implement, machine, or other similar device used in the course of an
22 examination or test performed on physical evidence for the purpose
23 of determining the connection or relevance of the evidence to a
24 criminal action; or

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

26 SECTION 3.26. Title 8, Penal Code, is amended by adding
27 Chapter 40, and a heading is added to that chapter to read as

1 follows:

2 CHAPTER 40. SEDITION AND SABOTAGE

3 SECTION 3.27. Section 154.517, Tax Code, is amended to read
4 as follows:

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

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

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

14 Sec. 155.208. MISDEMEANOR. (a) An offense under Section
15 155.202, 155.204, 155.205, 155.206, or 155.207 [~~Sections~~
16 ~~155.202-155.207~~] is a Class A misdemeanor.

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

21 SECTION 3.29. Section 155.213, Tax Code, is amended to read
22 as follows:

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

26 (b) An offense under Section 155.209 is a Class A
27 misdemeanor unless it is shown on the trial of the offense that the

1 person has been previously convicted of an offense under that
2 section, in which event the offense is a felony of the third degree.

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

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

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

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

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

15 SECTION 3.32. The following laws are repealed:

- 16 (1) Section 101.64, Alcoholic Beverage Code;
- 17 (2) Sections 17.30, 17.31, and 204.005, Business &
18 Commerce Code;
- 19 (3) Chapter 504, Business & Commerce Code;
- 20 (4) the heading to Chapter 522, Business & Commerce
21 Code;
- 22 (5) Section 44.051, Education Code;
- 23 (6) Sections 59.002, 89.101, 119.202, 122.251, and
24 199.001, Finance Code;
- 25 (7) the heading to Subchapter B, Chapter 557,
26 Government Code;
- 27 (8) Sections 557.012 and 557.013, Government Code;

- 1 (9) Sections 52.021 and 52.022, Labor Code;
- 2 (10) Sections 205.401(b), 1802.302, 1805.103,
- 3 2155.002(d), 2156.004, 2156.005, and 2158.003, Occupations Code;
- 4 (11) Sections 32.053(b) and 32.057(d), Parks and
- 5 Wildlife Code;
- 6 (12) Articles 4005a, 4006a, 4006b, 4015d, 4015e,
- 7 5196b, and 9010, Revised Statutes; and
- 8 (13) Chapter 281 (H.B. 2680), Acts of the 73rd
- 9 Legislature, Regular Session, 1993 (Article 4413(47e-1), Vernon's
- 10 Texas Civil Statutes).

11 ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE

12 SECTION 4.01. The changes in law made by this Act apply only

13 to an offense committed on or after the effective date of this Act.

14 An offense committed before the effective date of this Act is

15 governed by the law in effect on the date the offense was committed,

16 and the former law is continued in effect for that purpose. For

17 purposes of this section, an offense was committed before the

18 effective date of this Act if any element of the offense occurred

19 before that date.

20 SECTION 4.02. To the extent of any conflict, this Act

21 prevails over another Act of the 86th Legislature, Regular Session,

22 2019, relating to nonsubstantive additions to and corrections in

23 enacted codes.

24 SECTION 4.03. This Act takes effect September 1, 2019.