

By: Miller

H.B. No. 2369

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the punishment for, and civil liability related to
3 actions to prevent, the criminal offense of theft involving a
4 package delivered to a residential or commercial property;
5 increasing criminal penalties.

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

7 SECTION 1. The heading to Section 124.001, Civil Practice
8 and Remedies Code, is amended to read as follows:

9 Sec. 124.001. DETENTION TO INVESTIGATE OWNERSHIP OF
10 PROPERTY.

11 SECTION 2. Chapter 124, Civil Practice and Remedies Code,
12 is amended by adding Section 124.002 to read as follows:

13 Sec. 124.002. DETENTION TO PREVENT THEFT OF PACKAGE. (a) A
14 person who reasonably believes that another is stealing or
15 attempting to steal a package under the circumstances described by
16 Sections 31.03(e)(4)(G)(i) and (ii), Penal Code, is privileged to
17 detain the other person in a reasonable manner, including by use of
18 reasonable force, for a reasonable period to allow for the arrival
19 of law enforcement authorities.

20 (b) A person who is privileged to detain another under
21 Subsection (a) is not liable for damages arising from the detention
22 of that person.

23 SECTION 3. Article 59.01(2), Code of Criminal Procedure, is
24 amended to read as follows:

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

3 (A) used in the commission of:

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

6 (ii) any felony under Section 15.031(b),
7 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33,
8 33A, or 35, Penal Code;

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

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

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

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

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

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

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

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

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

4 (vii) a Class B misdemeanor under Chapter
5 522, Business & Commerce Code;

6 (viii) a Class A misdemeanor under Section
7 306.051, Business & Commerce Code;

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

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

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

14 (xii) any offense under Section 20.05 or
15 20.06, Penal Code; ~~or~~

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

18 (xiv) an offense punishable under Section
19 31.03(e)(4)(G), (5)(D), (6)(C), or (7)(B), Penal Code;

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

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

1 (E) used to facilitate or intended to be used to
2 facilitate the commission of a felony under Section 15.031 or
3 43.25, Penal Code; or

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

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

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

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

13 (2) a Class B misdemeanor if:

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

16 (B) the value of the property stolen is less than
17 \$100 and the defendant has previously been convicted of any grade of
18 theft; or

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

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

24 (4) a state jail felony if:

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

1 \$30,000;

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

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

7 (D) the value of the property stolen is less than
8 \$2,500 and the defendant has been previously convicted two or more
9 times of any grade of theft;

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

12 (F) the value of the property stolen is less than
13 \$20,000 and the property stolen is:

14 (i) aluminum;

15 (ii) bronze;

16 (iii) copper; or

17 (iv) brass; or

18 (G) the property:

19 (i) is a package that has been delivered by
20 United States mail, common carrier, or a delivery service but not
21 yet received by the addressee;

22 (ii) is stolen from a residential or
23 commercial property, including the driveway, porch, front door, or
24 any other area of the property; and

25 (iii) has a value of less than \$30,000;

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

1 property is:

2 (A) cattle, horses, or exotic livestock or exotic
3 fowl as defined by Section 142.001, Agriculture Code, stolen during
4 a single transaction and having an aggregate value of less than
5 \$150,000;

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

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

11 (i) a commercial building in which a
12 controlled substance is generally stored, including a pharmacy,
13 clinic, hospital, nursing facility, or warehouse; or

14 (ii) a vehicle owned or operated by a
15 wholesale distributor of prescription drugs; or

16 (D) a package described by Subdivision (4)(G)(i)
17 that is stolen from a location described by Subdivision (4)(G)(ii)
18 and that has a value of less than \$150,000, if the defendant has
19 previously been convicted one time of any grade of an offense under
20 this section involving the theft of a package under the
21 circumstances described by Subdivisions (4)(G)(i) and (ii);

22 (6) a felony of the second degree if:

23 (A) the value of the property stolen is \$150,000
24 or more but less than \$300,000; ~~or~~

25 (B) the value of the property stolen is less than
26 \$300,000 and the property stolen is an automated teller machine or
27 the contents or components of an automated teller machine; or

1 (C) the value of the property stolen is less than
2 \$300,000, the property is a package described by Subdivision
3 (4)(G)(i) stolen from a location described by Subdivision
4 (4)(G)(ii), and the defendant has previously been convicted two
5 times of any grade of an offense under this section involving the
6 theft of a package under the circumstances described by
7 Subdivisions (4)(G)(i) and (ii); or

8 (7) a felony of the first degree if:

9 (A) the value of the property stolen is \$300,000
10 or more; or

11 (B) the value of the property stolen is less than
12 \$300,000, the property is a package described by Subdivision
13 (4)(G)(i) stolen from a location described by Subdivision
14 (4)(G)(ii), and the defendant has previously been convicted three
15 or more times of any grade of an offense under this section
16 involving the theft of a package under the circumstances described
17 by Subdivisions (4)(G)(i) and (ii).

18 SECTION 5. Section 31.03(h), Penal Code, is amended by
19 adding Subdivision (7) to read as follows:

20 (7) "Package" means a box, container, bag, or other
21 sealed article holding a good or product.

22 SECTION 6. (a) Except as provided by Subsection (b) of
23 this section, the change in law made by this Act applies only to an
24 offense committed on or after the effective date of this Act. An
25 offense committed before the effective date of this Act is governed
26 by the law in effect on the date the offense was committed, and the
27 former law is continued in effect for that purpose. For purposes of

1 this subsection, an offense was committed before the effective date
2 of this Act if any element of the offense occurred before that date.

3 (b) Section 124.002, Civil Practice and Remedies Code, as
4 added by this Act, does not apply to a cause of action that accrued
5 before the effective date of this Act. A cause of action that
6 accrued before the effective date of this Act is governed by the law
7 applicable to the cause of action immediately before the effective
8 date of this Act, and that law is continued in effect for that
9 purpose.

10 SECTION 7. This Act takes effect September 1, 2019.