

By: Leman

H.B. No. 154

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of certain criminal offenses committed in the course of or for the purpose of avoiding certain law enforcement checkpoints or evading an arrest or detention; increasing criminal penalties.

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

SECTION 1. Section 20.05, Penal Code, as effective September 1, 2021, is amended by adding Subsection (b-1) to read as follows:

(b-1) For purposes of Subsection (a)(1)(A), the actor is presumed to have acted knowingly and with the intent to conceal the individual being transported from a peace officer or special investigator if in the course of committing the offense the actor intentionally avoided a federal or state law enforcement checkpoint.

SECTION 2. Section 22.01(b-1), Penal Code, is amended to read as follows:

(b-1) Notwithstanding Subsection (b), an offense under Subsection (a)(1) is a felony of the third degree if:

(1) it is shown on the trial of the offense that the actor committed the offense in the course of or for the purpose of intentionally avoiding a federal or state law enforcement checkpoint; or

(2) the offense is committed:

1 (A) [~~(1)~~] while the actor is committed to a civil
2 commitment facility; and

3 (B) [~~(2)~~] against:

4 (i) [~~(A)~~] an officer or employee of the
5 Texas Civil Commitment Office:

6 (a) [~~(i)~~] while the officer or
7 employee is lawfully discharging an official duty at a civil
8 commitment facility; or

9 (b) [~~(ii)~~] in retaliation for or on
10 account of an exercise of official power or performance of an
11 official duty by the officer or employee; or

12 (ii) [~~(B)~~] a person who contracts with the
13 state to perform a service in a civil commitment facility or an
14 employee of that person:

15 (a) [~~(i)~~] while the person or
16 employee is engaged in performing a service within the scope of the
17 contract, if the actor knows the person or employee is authorized by
18 the state to provide the service; or

19 (b) [~~(ii)~~] in retaliation for or on
20 account of the person's or employee's performance of a service
21 within the scope of the contract.

22 SECTION 3. Chapter 28, Penal Code, is amended by adding
23 Section 28.10 to read as follows:

24 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
25 STATE JAIL FELONIES. The punishment for an offense under this
26 chapter that is punishable as a misdemeanor or a state jail felony
27 is increased to the punishment for a felony of the third degree if

1 it is shown on the trial of the offense that the actor committed the
2 offense in the course of or for the purpose of:

3 (1) intentionally avoiding a federal or state law
4 enforcement checkpoint; or

5 (2) engaging in conduct constituting an offense under
6 Section 38.04.

7 SECTION 4. Section 30.02, Penal Code, is amended by
8 amending Subsection (c) and adding Subsection (c-2) to read as
9 follows:

10 (c) Except as provided in Subsection (c-1), (c-2), or (d),
11 an offense under this section is a:

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

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

16 (c-2) An offense under this section is a felony of the third
17 degree if:

18 (1) the premises are a building other than a
19 habitation; and

20 (2) it is shown on the trial of the offense that the
21 actor committed the offense in the course of or for the purpose of
22 intentionally avoiding a federal or state law enforcement
23 checkpoint.

24 SECTION 5. Section 30.04(d), Penal Code, is amended to read
25 as follows:

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

1 (1) the offense is a Class A misdemeanor with a minimum
2 term of confinement of six months if it is shown on the trial of the
3 offense that the defendant has been previously convicted of an
4 offense under this section;

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

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

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

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

12 (A) the vehicle broken into or entered is owned
13 or operated by a wholesale distributor of prescription drugs[+] and

14 [~~(B)~~] the actor breaks into or enters that
15 vehicle with the intent to commit theft of a controlled substance;
16 or

17 (B) it is shown on the trial of the offense that
18 the actor committed the offense in the course of or for the purpose
19 of intentionally avoiding a federal or state law enforcement
20 checkpoint.

21 SECTION 6. Section 30.05(d), Penal Code, as amended by H.B.
22 1927 and H.B. 1540, Acts of the 87th Legislature, Regular Session,
23 2021, and effective September 1, 2021, is reenacted and amended to
24 read as follows:

25 (d) Subject to Subsection (d-3), an offense under this
26 section is:

27 (1) a Class B misdemeanor, except as provided by

1 Subdivisions (2), ~~[and]~~ (3), and (4);

2 (2) a Class C misdemeanor, except as provided by
3 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is
4 committed:

5 (A) on agricultural land and within 100 feet of
6 the boundary of the land; or

7 (B) on residential land and within 100 feet of a
8 protected freshwater area; ~~[and]~~

9 (3) a Class A misdemeanor, except as provided by
10 Subdivision (4), if:

11 (A) the offense is committed:

12 (i) in a habitation or a shelter center;

13 (ii) on a Superfund site; or

14 (iii) on or in a critical infrastructure
15 facility;

16 (B) the offense is committed on or in property of
17 an institution of higher education and it is shown on the trial of
18 the offense that the person has previously been convicted of:

19 (i) an offense under this section relating
20 to entering or remaining on or in property of an institution of
21 higher education; or

22 (ii) an offense under Section [51.204\(b\)\(1\)](#),
23 Education Code, relating to trespassing on the grounds of an
24 institution of higher education;

25 (C) the person carries a deadly weapon during the
26 commission of the offense; or

27 (D) the offense is committed on the property of

1 or within a general residential operation operating as a
2 residential treatment center; and

3 (4) a felony of the third degree if it is shown on the
4 trial of the offense that the defendant committed the offense in the
5 course of or for the purpose of intentionally avoiding a federal or
6 state law enforcement checkpoint.

7 SECTION 7. The changes in law made by this Act apply only to
8 an offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this section, an offense was committed before the effective date of
13 this Act if any element of the offense was committed before that
14 date.

15 SECTION 8. This Act takes effect on the 91st day after the
16 last day of the legislative session.