By:  Buckley, et al. (Senate Sponsor - Hughes) H.B. No. 2366

(In the Senate - Received from the House May 3, 2021; May 10, 2021, read first time and referred to Committee on Criminal Justice; May 20, 2021, reported favorably by the following vote: Yeas 5, Nays 2; May 20, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa            X

Miles               X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to criminal conduct that endangers law enforcement; creating a criminal offense and increasing a criminal penalty.

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

SECTION 1.  Section 42.13, Penal Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c)  An offense under this section is a Class C misdemeanor, except that the offense is:

(1)  a felony of the third degree if the conduct causes bodily injury to the officer; or

(2)  a felony of the first degree if the conduct causes serious bodily injury to the officer.

(d)  If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law, but not both.

SECTION 2.  Title 10, Penal Code, is amended by adding Chapter 50 to read as follows:

CHAPTER 50. FIREWORKS

Sec. 50.01.  DEFINITIONS. In this chapter:

(1)  "Consumer firework" and "fireworks" have the meanings assigned by 49 C.F.R. Section 173.59.

(2)  "Law enforcement officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or a person who is a federal law enforcement officer, as defined by 5 U.S.C. Section 8331(20).

Sec. 50.02.  UNLAWFUL USE OF FIREWORKS. (a) A person commits an offense if the person explodes or ignites fireworks with the intent to:

(1)  interfere with the lawful performance of an official duty by a law enforcement officer; or

(2)  flee from a person the actor knows is a law enforcement officer attempting to lawfully arrest or detain the actor.

(b)  Except as provided by Subsections (c) and (d), an offense under this section is a state jail felony.

(c)  An offense under this section that involves any firework that is not a consumer firework is a second degree felony.

(d)  Notwithstanding Subsection (c), an offense under this section is a felony of the first degree if the offense causes serious bodily injury to a person the actor knows is a law enforcement officer while the law enforcement officer is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a law enforcement officer.

(e)  If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 3.  The changes in law made by this Act apply 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 when 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.

SECTION 4.  This Act takes effect September 1, 2021.

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