

By: Krause

H.B. No. 816

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 other successor commissions and to authorize
16 additional review of the penal laws described by Section 2.01(a) of
17 this Act.

18 ARTICLE 2. COMMISSION TO STUDY CERTAIN PENAL LAWS

19 SECTION 2.01. COMMISSION TO STUDY CERTAIN PENAL LAWS.

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

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

1 (b) The commission shall:

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

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

12 (3) evaluate the current applicability of any
13 recommendations that were previously made by the commissions
14 described by Subdivision (2) of this subsection and that have not
15 yet been implemented.

16 (c) The commission is composed of nine members appointed as
17 follows:

18 (1) two members appointed by the governor;

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

20 (3) two members appointed by the speaker of the house
21 of representatives;

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

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

26 (d) The officials making appointments to the commission
27 under Subsection (c) of this section shall ensure that the

1 membership of the commission includes representatives of all areas
2 of the criminal justice system, including prosecutors, defense
3 attorneys, judges, legal scholars, and relevant business
4 interests.

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

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

9 (g) The commission shall meet at the call of the presiding
10 officer.

11 (h) Not later than November 1, 2022, the commission shall
12 report the commission's findings and recommendations to the
13 governor, the lieutenant governor, the speaker of the house of
14 representatives, the Supreme Court of Texas, the Texas Court of
15 Criminal Appeals, and the standing committees of the house of
16 representatives and the senate with primary jurisdiction over
17 criminal justice matters. The commission shall include in its
18 recommendations any specific statutes that the commission
19 recommends repealing or amending.

20 SECTION 2.02. APPOINTMENT OF MEMBERS. Not later than
21 November 1, 2021, the governor, the lieutenant governor, the
22 speaker of the house of representatives, the chief justice of the
23 Supreme Court of Texas, and the presiding judge of the Texas Court
24 of Criminal Appeals shall appoint the members of the commission
25 created under this article.

26 SECTION 2.03. ABOLITION OF COMMISSION. The commission is
27 abolished and this article expires December 31, 2022.

1 ARTICLE 3. MISCELLANEOUS AMENDMENTS RELATING TO CRIMINAL OFFENSES

2 SECTION 3.01. Section 17.46(b), Business & Commerce Code,
3 is amended to read as follows:

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

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

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

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

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

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

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

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

27 (8) disparaging the goods, services, or business of

1 another by false or misleading representation of facts;

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

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

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

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

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

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

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

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

27 (17) advertising of any sale by fraudulently

1 representing that a person is going out of business;

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

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

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

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

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

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

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

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

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

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

1 failure to disclose such information was intended to induce the
2 consumer into a transaction into which the consumer would not have
3 entered had the information been disclosed;

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

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

15 (27) subject to Section 17.4625, taking advantage of a
16 disaster declared by the governor under Chapter 418, Government
17 Code, or by the president of the United States by:

18 (A) selling or leasing fuel, food, medicine,
19 lodging, building materials, construction tools, or another
20 necessity at an exorbitant or excessive price; or

21 (B) demanding an exorbitant or excessive price in
22 connection with the sale or lease of fuel, food, medicine, lodging,
23 building materials, construction tools, or another necessity;

24 (28) using the translation into a foreign language of
25 a title or other word, including "attorney," "immigration
26 consultant," "immigration expert," "lawyer," "licensed," "notary,"
27 and "notary public," in any written or electronic material,

1 including an advertisement, a business card, a letterhead,
2 stationery, a website, or an online video, in reference to a person
3 who is not an attorney in order to imply that the person is
4 authorized to practice law in the United States;

5 (29) delivering or distributing a solicitation in
6 connection with a good or service that:

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

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

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

18 "SPECIMEN-NON-NEGOTIABLE";

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

25 (A) making a deceptive representation or
26 designation about the synthetic substance; or

27 (B) causing confusion or misunderstanding as to

1 the effects the synthetic substance causes when consumed or
2 ingested;

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

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

15 (A) is not appropriately licensed under Chapter
16 455, Occupations Code, or is not in compliance with the applicable
17 licensing and other requirements of that chapter; or

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

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

26 SECTION 3.02. Section 17.461, Business & Commerce Code, is
27 transferred to Subchapter D, Chapter 32, Penal Code, and

1 redesignated as Section 32.55, Penal Code, to read as follows:

2 Sec. 32.55 [~~17.461~~]. PYRAMID PROMOTIONAL SCHEME. (a) In
3 this section:

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

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

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

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

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

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

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

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

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

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

1 (6) "Pyramid promotional scheme" means a plan or
2 operation by which a person gives consideration for the opportunity
3 to receive compensation that is derived primarily from a person's
4 introduction of other persons to participate in the plan or
5 operation rather than from the sale of a product by a person
6 introduced into the plan or operation.

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

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

1 (d) It is not a defense to prosecution for an offense under
2 this section that the pyramid promotional scheme involved both a
3 franchise to sell a product and the authority to sell additional
4 franchises if the emphasis of the scheme is on the sale of
5 additional franchises.

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

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

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

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

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

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

1 (c) [~~(b)~~] An offense under this section is a Class B
2 misdemeanor, except that the offense is a state jail felony if the
3 information accessed, read, scanned, stored, or transferred was
4 protected health information as defined by the Health Insurance
5 Portability and Accountability Act and Privacy Standards, as
6 defined by Section [181.001](#), Health and Safety Code.

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

10 SECTION 3.04. Sections [607.001](#)(6) and (8), Business &
11 Commerce Code, are amended to read as follows:

12 (6) "Payment card" has the meaning assigned by Section
13 [32.511](#), Penal Code [~~522.001~~].

14 (8) "Skimmer" means a wire or electronic device that
15 is capable of unlawfully intercepting electronic communications or
16 data to perpetrate fraud. The term includes a re-encoder and
17 scanning device, as those terms are defined by Section [32.511](#),
18 [Penal Code](#) [~~522.001~~].

19 SECTION 3.05. Article [18.18](#)(g), Code of Criminal Procedure,
20 is amended to read as follows:

21 (g) For purposes of this article:

22 (1) "criminal instrument" has the meaning defined in
23 the Penal Code;

24 (2) "gambling device or equipment, altered gambling
25 equipment or gambling paraphernalia" has the meaning defined in the
26 Penal Code;

27 (3) "prohibited weapon" has the meaning defined in the

1 Penal Code;

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

3 (A) equipment used for training or handling a
4 fighting dog, including a harness, treadmill, cage, decoy, pen,
5 house for keeping a fighting dog, feeding apparatus, or training
6 pen;

7 (B) equipment used for transporting a fighting
8 dog, including any automobile, or other vehicle, and its
9 appurtenances which are intended to be used as a vehicle for
10 transporting a fighting dog;

11 (C) equipment used to promote or advertise an
12 exhibition of dog fighting, including a printing press or similar
13 equipment, paper, ink, or photography equipment; or

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

16 (5) "obscene device" and "obscene" have the meanings
17 assigned by Section [43.21](#), Penal Code;

18 (6) "re-encoder" has the meaning assigned by Section
19 [32.511](#), Penal ~~[522.001, Business & Commerce]~~ Code;

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

22 (8) "obscene material" and "child pornography"
23 include digital images and the media and equipment on which those
24 images are stored.

25 SECTION 3.06. (a) Article [59.01](#)(2), Code of Criminal
26 Procedure, as effective until January 1, 2022, is amended to read as
27 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 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
8 Code;

9 (iii) any felony under Chapter 43, Penal
10 Code, except as provided by Paragraph (B);

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

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

17 (B) used or intended to be used in the commission
18 of:

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

21 (ii) any felony under Chapter 483, Health
22 and Safety Code;

23 (iii) a felony under Chapter 151, Finance
24 Code;

25 (iv) any felony under Chapter 20A or 34,
26 Penal Code;

27 (v) a Class A misdemeanor under Subchapter

1 B, Chapter 365, Health and Safety Code, if the defendant has been
2 previously convicted twice of an offense under that subchapter;

3 (vi) any felony under Chapter 32, Human
4 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
5 involves a health care program, as defined by Section 35A.01, Penal
6 Code;

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

10 (viii) a Class A misdemeanor under Section
11 306.051, Business & Commerce Code;

12 (ix) any offense under Section 42.10, Penal
13 Code;

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

16 (xi) any offense under Chapter 71, Penal
17 Code;

18 (xii) any offense under Section 20.05,
19 20.06, 20.07, 43.04, or 43.05, Penal Code; or

20 (xiii) an offense under Section 326.002,
21 Business & Commerce Code;

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

26 (D) acquired with proceeds gained from the
27 commission of a felony listed in Paragraph (A) or (B) of this

1 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
2 (xi), or (xii) of this subdivision, or a crime of violence;

3 (E) used to facilitate or intended to be used to
4 facilitate the commission of a felony under Section 15.031 or
5 Chapter 43, Penal Code; or

6 (F) used to facilitate or intended to be used to
7 facilitate the commission of an offense under Section 20.05, 20.06,
8 or 20.07 or Chapter 20A, Penal Code.

9 (b) Article 59.01(2), Code of Criminal Procedure, as
10 effective on January 1, 2022, is amended to read as follows:

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

13 (A) used in the commission of:

14 (i) any first or second degree felony under
15 the Penal Code;

16 (ii) any felony under Section 15.031(b),
17 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
18 Code;

19 (iii) any felony under Chapter 43, Penal
20 Code, except as provided by Paragraph (B);

21 (iv) any felony under The Securities Act
22 (Title 12, Government Code); or

23 (v) any offense under Chapter 49, Penal
24 Code, that is punishable as a felony of the third degree or state
25 jail felony, if the defendant has been previously convicted three
26 times of an offense under that chapter;

27 (B) used or intended to be used in the commission

1 of:

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

4 (ii) any felony under Chapter 483, Health
5 and Safety Code;

6 (iii) a felony under Chapter 151, Finance
7 Code;

8 (iv) any felony under Chapter 20A or 34,
9 Penal Code;

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

13 (vi) any felony under Chapter 32, Human
14 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
15 involves a health care program, as defined by Section 35A.01, Penal
16 Code;

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

20 (viii) a Class A misdemeanor under Section
21 306.051, Business & Commerce Code;

22 (ix) any offense under Section 42.10, Penal
23 Code;

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

26 (xi) any offense under Chapter 71, Penal
27 Code;

1 (xii) any offense under Section 20.05,
2 20.06, 20.07, 43.04, or 43.05, Penal Code; or

3 (xiii) an offense under Section 326.002,
4 Business & Commerce Code;

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

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

13 (E) used to facilitate or intended to be used to
14 facilitate the commission of a felony under Section 15.031 or
15 Chapter 43, Penal Code; or

16 (F) used to facilitate or intended to be used to
17 facilitate the commission of an offense under Section 20.05, 20.06,
18 or 20.07 or Chapter 20A, Penal Code.

19 SECTION 3.07. Sections 424.001(2) and (4), Government Code,
20 as added by Chapter 863 (H.B. 2945), Acts of the 86th Legislature,
21 Regular Session, 2019, are amended to read as follows:

22 (2) "Payment card" has the meaning assigned by Section
23 32.511, Penal [~~522.001, Business & Commerce~~] Code.

24 (4) "Skimmer" means a wire or electronic device that
25 is capable of unlawfully intercepting electronic communications or
26 data to perpetrate fraud. The term includes a re-encoder and
27 scanning device, as those terms are defined by Section 32.511,

1 Penal [~~522.001, Business & Commerce~~] Code.

2 SECTION 3.08. Sections 557.001 and 557.011, Government
3 Code, are transferred to Chapter 40, Penal Code, as added by this
4 Act, redesignated as Sections 40.01 and 40.02, Penal Code,
5 respectively, and amended to read as follows:

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

8 (1) commits, attempts to commit, or conspires with one
9 or more persons to commit an act intended to overthrow, destroy, or
10 alter the constitutional form of government of this state or of any
11 political subdivision of this state by force or violence;

12 (2) under circumstances that constitute a clear and
13 present danger to the security of this state or a political
14 subdivision of this state, advocates, advises, or teaches or
15 conspires with one or more persons to advocate, advise, or teach a
16 person to commit or attempt to commit an act described in
17 Subdivision (1); or

18 (3) participates, with knowledge of the nature of the
19 organization, in the management of an organization that engages in
20 or attempts to engage in an act intended to overthrow, destroy, or
21 alter the constitutional form of government of this state or of any
22 political subdivision of this state by force or violence.

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

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

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

1 or

2 [~~3~~] both fine and imprisonment].

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

6 Sec. 40.02 [~~557.011~~]. SABOTAGE. (a) A person commits an
7 offense if the person, with the intent to injure the United States,
8 this state, or any facility or property used for national defense
9 sabotages or attempts to sabotage any property or facility used or
10 to be used for national defense.

11 (b) An offense under this section is a felony of the second
12 degree [~~punishable by confinement in the Texas Department of~~
13 ~~Criminal Justice for a term of not less than two years or more than~~
14 ~~20 years~~].

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

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

20 SECTION 3.09. Section 557.002, Government Code, is amended
21 to read as follows:

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

26 SECTION 3.10. Section 3101.010(b), Government Code, is
27 amended to read as follows:

1 (b) An offense under this section is a misdemeanor and on
2 conviction is punishable by[+
3 [~~(1)~~] a fine of not less than \$5 or more than \$300[+
4 [~~(2)~~ confinement in the county jail for a term not to
5 exceed three months; or
6 [~~(3)~~ both a fine and confinement].

7 SECTION 3.11. Section 615.002(e), Local Government Code, is
8 amended to read as follows:

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

13 SECTION 3.12. Section 11.074(b), Natural Resources Code, is
14 amended to read as follows:

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

24 SECTION 3.13. Section 88.134(b), Natural Resources Code, is
25 amended to read as follows:

26 (b) A person who violates any [~~other~~] provision of this
27 chapter other than those covered by Subsection (a), a person who

1 fails to comply with any of the other terms of this chapter, a
2 person who fails to comply with the terms of a rule or order adopted
3 by the governmental agency under the terms of this chapter, or a
4 person who violates any of the rules or orders of the governmental
5 agency adopted under the provisions of this chapter commits an
6 offense. An offense under this subsection is a felony of the third
7 degree [~~on conviction is considered guilty of a felony and on~~
8 ~~conviction shall be punished by imprisonment in the Texas~~
9 ~~Department of Criminal Justice for a term of not less than two nor~~
10 ~~more than four years~~].

11 SECTION 3.14. Section 114.102(b), Natural Resources Code,
12 is 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 3.15. Section 264.151(a), Occupations Code, is
16 amended to read as follows:

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

20 SECTION 3.16. Section 266.303, Occupations Code, is amended
21 by amending Subsection (b) and adding Subsection (b-1) to read as
22 follows:

23 (b) An offense for a violation of Section 266.151 is a Class
24 A misdemeanor, except that the offense is a felony of the third
25 degree if it is shown on the trial of the offense that the defendant
26 has previously been convicted of an offense for a violation of
27 Section 266.151.

1 (b-1) An offense for a violation of ~~[or]~~ Section 266.301(b)
2 is a Class A misdemeanor, except that the offense is a felony of the
3 third degree if it is shown on the trial of the offense that the
4 defendant has previously been convicted of an offense for a
5 violation of Section 266.301(b).

6 SECTION 3.17. Section 1701.553(b), Occupations Code, is
7 amended to read as follows:

8 (b) An offense under Subsection (a) is a Class A misdemeanor
9 ~~[state jail felony]~~.

10 SECTION 3.18. Subchapter E, Chapter 1802, Occupations Code,
11 is amended by adding Section 1802.2025 to read as follows:

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

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

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

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

20 SECTION 3.19. Section 2155.002(e), Occupations Code, is
21 amended to read as follows:

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

24 SECTION 3.20. Section 2156.006, Occupations Code, is
25 amended to read as follows:

26 Sec. 2156.006. FORFEITURE OF LEASE. A theater's lessee or a
27 lessee's assigns forfeit the lease and any rights and privileges

1 under the lease if the person[+
2 [~~(1)~~] does not comply with the law governing
3 theaters[~~+or~~
4 [~~(2)~~ is convicted of an offense under Section
5 [2156.005](#)].

6 SECTION 3.21. Section [19.03](#)(a), Penal Code, is amended to
7 read as follows:

8 (a) A person commits an offense if the person commits murder
9 as defined under Section [19.02](#)(b)(1) and:

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

13 (2) the person intentionally commits the murder in the
14 course of committing or attempting to commit kidnapping, burglary,
15 robbery, aggravated sexual assault, arson, obstruction or
16 retaliation, sabotage, or terroristic threat under Section
17 [22.07](#)(a)(1), (3), (4), (5), or (6);

18 (3) the person commits the murder for remuneration or
19 the promise of remuneration or employs another to commit the murder
20 for remuneration or the promise of remuneration;

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

23 (5) the person, while incarcerated in a penal
24 institution, murders another:

25 (A) who is employed in the operation of the penal
26 institution; or

27 (B) with the intent to establish, maintain, or

1 participate in a combination or in the profits of a combination;

2 (6) the person:

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

5 (B) while serving a sentence of life imprisonment
6 or a term of 99 years for an offense under Section 20.04, 22.021, or
7 29.03, murders another;

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

9 (A) during the same criminal transaction; or

10 (B) during different criminal transactions but
11 the murders are committed pursuant to the same scheme or course of
12 conduct;

13 (8) the person murders an individual under 10 years of
14 age;

15 (9) the person murders an individual 10 years of age or
16 older but younger than 15 years of age; or

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

23 SECTION 3.22. Section 37.10(c)(2), Penal Code, is amended
24 to read as follows:

25 (2) An offense under this section is a felony of the
26 third degree if it is shown on the trial of the offense that the
27 governmental record was:

1 (A) a public school record, report, or assessment
2 instrument required under Chapter 39, Education Code, a public
3 school record, form, report, or budget required under Chapter 48,
4 Education Code, or a rule adopted under that chapter, data reported
5 for a school district or open-enrollment charter school to the
6 Texas Education Agency through the Public Education Information
7 Management System (PEIMS) described by Sections 48.008 and 48.009,
8 Education Code, under a law or rule requiring that reporting, or a
9 license, certificate, permit, seal, title, letter of patent, or
10 similar document issued by government, by another state, or by the
11 United States, unless the actor's intent is to defraud or harm
12 another, in which event the offense is a felony of the second
13 degree;

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

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

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

25 SECTION 3.23. Title 8, Penal Code, is amended by adding
26 Chapter 40, and a heading is added to that chapter to read as
27 follows:

1 CHAPTER 40. SEDITION AND SABOTAGE

2 SECTION 3.24. Section 154.517, Tax Code, is amended to read
3 as follows:

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

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

11 SECTION 3.25. Section 155.208, Tax Code, is amended to read
12 as follows:

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

16 SECTION 3.26. Section 155.213, Tax Code, is amended to read
17 as follows:

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

21 (b) An offense under Section 155.209 is a Class A
22 misdemeanor unless it is shown on the trial of the offense that the
23 person has been previously convicted of an offense under that
24 section, in which event the offense is a felony of the third degree.

25 (c) An offense under Section 155.211 is a Class A
26 misdemeanor unless it is shown on the trial of the offense that the
27 person has been previously convicted of an offense under that

1 section, in which event the offense is a felony of the third degree.

2 SECTION 3.27. Section 15.030(c), Utilities Code, is amended
3 to read as follows:

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

6 SECTION 3.28. Section 105.024(b), Utilities Code, is
7 amended to read as follows:

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

10 SECTION 3.29. The following laws are repealed:

- 11 (1) Section 101.64, Alcoholic Beverage Code;
- 12 (2) Sections 17.30, 17.31, and 204.005, Business &
13 Commerce Code;
- 14 (3) Chapter 504, Business & Commerce Code;
- 15 (4) the heading to Chapter 522, Business & Commerce
16 Code;
- 17 (5) Section 44.051, Education Code;
- 18 (6) the heading to Subchapter B, Chapter 557,
19 Government Code;
- 20 (7) Sections 557.012 and 557.013, Government Code;
- 21 (8) Sections 52.021 and 52.022, Labor Code;
- 22 (9) Sections 201.604, 205.401, 702.556, 1071.504,
23 1101.756, 1101.757, 1101.758, 1103.5545, 1104.253, 1802.301,
24 1802.302, 1802.303, 1805.103, 2155.002(d), 2156.004, 2156.005,
25 2158.003, and 2501.251, Occupations Code;
- 26 (10) Articles 4005a, 4006a, 4006b, 4015d, 4015e,
27 5196b, and 9010, Revised Statutes; and

1 (11) Chapter 281 (H.B. 2680), Acts of the 73rd
2 Legislature, Regular Session, 1993 (Article 4413(47e-1), Vernon's
3 Texas Civil Statutes).

4 ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE

5 SECTION 4.01. The changes in law made by this Act apply only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 4.02. This Act takes effect September 1, 2021.