

Amend **HB 800** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 38, Penal Code, is amended by adding Section 38.20 to read as follows:

Sec. 38.20. IMPROPER ENTRY FROM FOREIGN NATION. (a) In this section, "alien" has the meaning assigned by 8 U.S.C. Section 1101, as that provision existed on January 1, 2023.

(b) A person who is an alien commits an offense if the person:

(1) enters or attempts to enter this state from a foreign nation at any location other than a lawful point of entry;

(2) eludes examination or inspection by United States immigration officers; or

(3) attempts to enter or obtains entry to this state from a foreign nation by an intentionally false or misleading representation or the intentional concealment of a material fact.

(c) An offense under this section is a Class A misdemeanor, except that if it is shown on the trial of the offense that the person has previously been finally convicted of:

(1) an offense under this section, the offense is a state jail felony;

(2) a state jail felony described by Subdivision (1) or any other felony not listed in Article 42A.054(a), Code of Criminal Procedure, the offense is a felony of the second degree; or

(3) a felony listed in Article 42A.054(a), Code of Criminal Procedure, the offense is a felony of the first degree.

(d) It is an affirmative defense to prosecution under this section that:

(1) the actor has been granted a federal immigration benefit entitling the actor to:

(A) lawful presence in the United States; or

(B) asylum under 8 U.S.C. Section 1158;

(2) the actor's conduct does not constitute a violation of 8 U.S.C. Section 1325(a); or

(3) the actor was approved for benefits under the federal Deferred Action for Childhood Arrivals program between June

15, 2012, and July 16, 2021.

(e) For purposes of Subsection (d)(1), the following federal programs do not confer federal immigration benefits entitling the actor to lawful presence in the United States:

(1) the Deferred Action for Parents of Americans and Lawful Permanent Residents; and

(2) any program not enacted by the United States Congress that is a successor to or materially similar to the program described by Subdivision (1) or Subsection (d)(3).

(f) A court may not abate the prosecution of an offense under this section on the basis that a federal determination regarding the immigration status of the actor is pending.

(g) A law enforcement officer of the Department of Public Safety who arrests a person for an offense under this section shall, to the extent feasible, detain the person in a facility established under Operation Lone Star or a similar border security operation of this state.

SECTION _____. It is the intent of the legislature that every provision, section, subsection, sentence, clause, phrase, or word in this Act, and every application of the provisions in this Act to every person, group of persons, or circumstances, is severable from each other. If any application of any provision in this Act to any person, group of persons, or circumstances is found by a court to be invalid for any reason, the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected.