

BILL ANALYSIS

C.S.H.B. 65
By: Spiller
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

States have limited authority to enforce federal immigration law. The State of Texas, through Operation Lone Star, is using every tool at its disposal to secure the Texas-Mexico border. However, additional authority is needed to pursue criminal charges for trespass and other similar actions. Currently, the only legal tool available is to charge individuals with a misdemeanor. This is problematic because prosecutors have to be ready for trial within as few as 15 days for a Class B misdemeanor or 30 days for a Class A misdemeanor under the Code of Criminal Procedure or the defendant must be released. C.S.H.B. 65 seeks to address this issue by increasing the penalties for criminal trespass and other similar charges from a Class B misdemeanor to a third degree felony when individuals unlawfully bypass any federal or state law enforcement checkpoint. By increasing the level of punishment for these crimes, prosecutors will have 90 days to prepare for trial and the number of defendants who are released on these charges will be reduced. Additionally, and most importantly, the increased penalty will qualify the crime as an automatically deportable offense under federal law.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 65 amends the Penal Code to increase the penalty for an offense of arson, criminal mischief, reckless damage or destruction, interference with railroad property, or graffiti that is punishable as a misdemeanor or a state jail felony to a third degree felony if 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 engaging in conduct constituting an offense of evading arrest or detention.

C.S.H.B. 65 increases the penalty for the following offenses to a third degree felony if 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:

- assault in which the actor intentionally, knowingly, or recklessly causes bodily injury to another;
- burglary of a building other than a habitation;
- burglary of vehicles; and
- criminal trespass.

C.S.H.B. 65 establishes a presumption that an actor committing a smuggling of persons offense in which the actor uses a motor vehicle, aircraft, watercraft, or other means of conveyance to transport an individual with the intent to conceal the individual from a peace officer or special investigator acted knowingly and with such intent if in the course of committing the offense the actor intentionally avoided a federal or state law enforcement checkpoint.

C.S.H.B. 65 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

July 1, 2023, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 65 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces references in the introduced to "unlawfully entering the United States" with references to "intentionally avoiding a federal or state law enforcement checkpoint." Moreover, the substitute updates the reference in the introduced to unlawfully bypassing a federal or state law enforcement checkpoint with respect to the presumption established by the bill to reference instead intentionally avoiding such a checkpoint.

The substitute changes the bill's effective date from September 1, 2023, as in the introduced, to July 1, 2023, or, if the bill does not receive the necessary vote, September 1, 2023.