88R13510 JRR-F

By:  Spiller, Guillen, Holland, H.B. No. 65

     Bell of Kaufman, et al.

Substitute the following for H.B. No. 65:

By:  Dean C.S.H.B. No. 65

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, 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:

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

(B) [~~(2)~~]  against:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2)  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.

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

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

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

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

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

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

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

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

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

(B)  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.

SECTION 6.  Section 30.05(d), Penal Code, is amended to read as follows:

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

(1)  a Class B misdemeanor, except as provided by Subdivisions (2), [~~and~~] (3), and (4);

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

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

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

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

(A)  the offense is committed:

(i)  in a habitation or a shelter center;

(ii)  on a Superfund site; or

(iii)  on or in a critical infrastructure facility;

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

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

(ii)  an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education;

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

(D)  the offense is committed on the property of or within a general residential operation operating as a residential treatment center; and

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

SECTION 7.  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 on the date 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 was committed before that date.

SECTION 8.  This Act takes effect July 1, 2023, if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this Act takes effect September 1, 2023.