

By: Spiller

H.B. No. 65

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution and punishment of certain criminal
3 offenses committed in the course of or for the purpose of unlawfully
4 entering the United States, unlawfully bypassing certain law
5 enforcement checkpoints, or evading an arrest or detention;
6 increasing criminal penalties.

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

8 SECTION 1. Section 20.05, Penal Code, is amended by adding
9 Subsection (b-1) to read as follows:

10 (b-1) For purposes of Subsection (a)(1)(A), the actor is
11 presumed to have acted knowingly and with the intent to conceal the
12 individual being transported from a peace officer or special
13 investigator if in the course of committing the offense the actor
14 unlawfully bypassed a federal or state law enforcement checkpoint.

15 SECTION 2. Section 22.01(b-1), Penal Code, is amended to
16 read as follows:

17 (b-1) Notwithstanding Subsection (b), an offense under
18 Subsection (a)(1) is a felony of the third degree if:

19 (1) it is shown on the trial of the offense that the
20 actor committed the offense in the course of or for the purpose of
21 unlawfully entering the United States; or

22 (2) the offense is committed:

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

1 (B) [~~(2)~~] against:

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

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

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

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

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

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

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

22 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
23 STATE JAIL FELONIES. The punishment for an offense under this
24 chapter that is punishable as a misdemeanor or a state jail felony
25 is increased to the punishment for a felony of the third degree if
26 it is shown on the trial of the offense that the actor committed the
27 offense in the course of or for the purpose of:

- 1 (1) unlawfully entering the United States; or
- 2 (2) engaging in conduct constituting an offense under
- 3 Section 38.04.

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

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

- 9 (1) state jail felony if committed in a building other
- 10 than a habitation; or
- 11 (2) felony of the second degree if committed in a
- 12 habitation.

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

- 15 (1) the premises are a building other than a
- 16 habitation; and
- 17 (2) it is shown on the trial of the offense that the
- 18 actor committed the offense in the course of or for the purpose of
- 19 unlawfully entering the United States.

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

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

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

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

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

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

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

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

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

13 (B) it is shown on the trial of the offense that
14 the actor committed the offense in the course of or for the purpose
15 of unlawfully entering the United States.

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

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

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

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

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

27 (B) on residential land and within 100 feet of a

1 protected freshwater area; ~~and~~

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

4 (A) the offense is committed:

5 (i) in a habitation or a shelter center;

6 (ii) on a Superfund site; or

7 (iii) on or in a critical infrastructure
8 facility;

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

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

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

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

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

23 (4) a felony of the third degree if it is shown on the
24 trial of the offense that the defendant committed the offense in the
25 course of or for the purpose of unlawfully entering the United
26 States.

27 SECTION 7. The changes in law made by this Act apply only to

1 an offense committed on or after the effective date of this Act. An
2 offense committed before the effective date of this Act is governed
3 by the law in effect on the date the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense was committed before that
7 date.

8 SECTION 8. This Act takes effect September 1, 2023.