

By: Hefner

H.B. No. 1600

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a criminal offense for illegal entry
3 into Texas from Mexico by persons who are not citizens or legal
4 permanent residents of the United States.

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

6 SECTION 1. The legislature finds that:

7 (1) Mexican drug cartels are designated as foreign
8 terrorist organizations in Executive Order GA-42 because they have
9 trafficked hundreds of millions of lethal doses of fentanyl into
10 Texas since 2021;

11 (2) to fund this deadly violence, Mexican drug cartels
12 have smuggled aliens across the Texas-Mexico border at a
13 record-setting pace under President Biden's open-border policies;

14 (3) this unprecedented surge of illegal immigration
15 has been a declared disaster for Texans since May 31, 2021;

16 (4) although an alien commits a federal crime under 8
17 U.S.C. 1325(a)(1) and its implementing regulations by entering the
18 United States at any time or place other than a federally designated
19 port of entry, President Biden has ignored repeated demands for
20 aggressive prosecution of these illegal-entry offenses by the U.S.
21 Department of Homeland Security and the U.S. Department of Justice;

22 (5) President Biden's refusal to faithfully execute 8
23 U.S.C. 1325(a)(1) and other immigration laws enacted by Congress
24 has broken the federal government's promise to "protect each

1 [~~State~~] against Invasion" under Section 4, Article IV, United
2 States Constitution;

3 (6) this federal dereliction of duty has compelled
4 Texas to protect its own border against invasion by Mexican drug
5 cartels, using the sovereign powers reserved to the States;

6 (7) as "Commander-in-Chief of the military forces of
7 the State," the Governor has the power to "call forth the militia to
8 execute the laws of the State" and "repel invasions" under Section
9 7, Article IV, Texas Constitution; and

10 (8) the Governor can protect Texans from cartel
11 violence and defend the State's territorial integrity by enforcing
12 a state-law version of the illegal-entry offense that President
13 Biden has refused to use under 8 U.S.C. 1325(a)(1).

14 SECTION 2. Title 10, Penal Code, is amended by adding
15 Chapter 51 to read as follows:

16 Chapter 51. ILLEGAL ENTRY

17 Sec. 51.01. DEFINITIONS. In this chapter:

18 (1) "Person" means any individual other than a citizen
19 or legal permanent resident of the United States.

20 (2) "Port of entry" has the same meaning assigned to
21 that term by Section 101.1, Title 19, Federal Code of Regulations.

22 Sec. 51.02. ILLEGAL ENTRY. (a) A person commits an offense
23 if the person enters or attempts to enter the State of Texas by
24 crossing its border with Mexico at any time or place other than at a
25 port of entry.

26 (b) An offense under this section is a felony of the third
27 degree, except that the offense is a felony of the second degree if

1 it is shown at the trial of the offense that the defendant has been
2 previously convicted of an offense under this section.

3 SECTION 3. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect when the offense was committed, and
7 the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 4. This Act takes effect September 1, 2023.