

By: Herrero

H.B. No. 3816

A BILL TO BE ENTITLED

AN ACT

relating to the use of metal or body armor while committing an offense; increasing a criminal penalty.

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

SECTION 1. Article 42.01, Code of Criminal Procedure, is amended by adding Section 17 to read as follows:

Sec. 17. In addition to the information described by Section 1, the judgment must reflect the affirmative finding entered pursuant to Article 42.01992.

SECTION 2. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.01992 to read as follows:

Art. 42.01992. FINDING REGARDING USE OF METAL OR BODY ARMOR. In the trial of an offense under Title 5, Penal Code, punishable as a Class A misdemeanor or any higher category of offense, other than a felony of the first degree, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant used metal or body armor, as defined by Section 46.041, Penal Code, during the commission of the offense.

SECTION 3. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.502 to read as follows:

Sec. 12.502. PENALTY IF METAL OR BODY ARMOR USED DURING

1 COMMISSION OF OFFENSE. If an affirmative finding under Article
2 42.01992, Code of Criminal Procedure, is made in the trial of an
3 offense, the punishment for the offense is increased to the
4 punishment prescribed for the next highest category of offense,
5 except that if the offense is a Class A misdemeanor the minimum term
6 of confinement for the offense is increased to 180 days.

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

15 SECTION 5. This Act takes effect September 1, 2023.