

By: Alvarado, Whitmire

S.B. No. 224

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for theft of a catalytic converter; increasing a criminal penalty.

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

SECTION 1. This Act shall be known as the Deputy Darren Almendarez Act.

SECTION 2. Section 31.03, Penal Code, is amended by amending Subsections (c) and (e) and adding Subsection (f-1) to read as follows:

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, the transaction for [that] which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code)

1 that the property has been previously stolen from another if the
2 actor pays for or loans against the property \$25 or more (or
3 consideration of equivalent value) and the actor knowingly or
4 recklessly:

5 (A) fails to record the name, address, and
6 physical description or identification number of the seller or
7 pledgor;

8 (B) fails to record a complete description of the
9 property, including the serial number, if reasonably available, or
10 other identifying characteristics; or

11 (C) fails to obtain a signed warranty from the
12 seller or pledgor that the seller or pledgor has the right to
13 possess the property. It is the express intent of this provision
14 that the presumption arises unless the actor complies with each of
15 the numbered requirements;

16 (4) for the purposes of Subdivision (3)(A),
17 "identification number" means driver's license number, military
18 identification number, identification certificate, or other
19 official number capable of identifying an individual;

20 (5) stolen property does not lose its character as
21 stolen when recovered by any law enforcement agency;

22 (6) an actor engaged in the business of obtaining
23 abandoned or wrecked motor vehicles or parts of an abandoned or
24 wrecked motor vehicle for resale, disposal, scrap, repair,
25 rebuilding, demolition, or other form of salvage is presumed to
26 know on receipt by the actor of stolen property that the property
27 has been previously stolen from another if the actor knowingly or

1 recklessly:

2 (A) fails to maintain an accurate and legible
3 inventory of each motor vehicle component part purchased by or
4 delivered to the actor, including the date of purchase or delivery,
5 the name, age, address, sex, and driver's license number of the
6 seller or person making the delivery, the license plate number of
7 the motor vehicle in which the part was delivered, a complete
8 description of the part, and the vehicle identification number of
9 the motor vehicle from which the part was removed, or in lieu of
10 maintaining an inventory, fails to record the name and certificate
11 of inventory number of the person who dismantled the motor vehicle
12 from which the part was obtained;

13 (B) fails on receipt of a motor vehicle to obtain
14 a certificate of authority, sales receipt, or transfer document as
15 required by Chapter 683, Transportation Code, or a certificate of
16 title showing that the motor vehicle is not subject to a lien or
17 that all recorded liens on the motor vehicle have been released; or

18 (C) fails on receipt of a motor vehicle to
19 immediately remove an unexpired license plate from the motor
20 vehicle, to keep the plate in a secure and locked place, or to
21 maintain an inventory, on forms provided by the Texas Department of
22 Motor Vehicles, of license plates kept under this paragraph,
23 including for each plate or set of plates the license plate number
24 and the make, motor number, and vehicle identification number of
25 the motor vehicle from which the plate was removed;

26 (7) an actor who purchases or receives a used or
27 secondhand motor vehicle is presumed to know on receipt by the actor

1 of the motor vehicle that the motor vehicle has been previously
2 stolen from another if the actor knowingly or recklessly:

3 (A) fails to report to the Texas Department of
4 Motor Vehicles the failure of the person who sold or delivered the
5 motor vehicle to the actor to deliver to the actor a properly
6 executed certificate of title to the motor vehicle at the time the
7 motor vehicle was delivered; or

8 (B) fails to file with the appropriate county tax
9 assessor-collector the documents required under Section 501.145,
10 Transportation Code, in the period provided by that section [~~of the~~
11 ~~county in which the actor received the motor vehicle, not later than~~
12 ~~the 20th day after the date the actor received the motor vehicle,~~
13 ~~the registration license receipt and certificate of title or~~
14 ~~evidence of title delivered to the actor in accordance with~~
15 ~~Subchapter D, Chapter 520, Transportation Code, at the time the~~
16 ~~motor vehicle was delivered~~];

17 (8) an actor who purchases or receives from any source
18 other than a licensed retailer or distributor of pesticides a
19 restricted-use pesticide or a state-limited-use pesticide or a
20 compound, mixture, or preparation containing a restricted-use or
21 state-limited-use pesticide is presumed to know on receipt by the
22 actor of the pesticide or compound, mixture, or preparation that
23 the pesticide or compound, mixture, or preparation has been
24 previously stolen from another if the actor:

25 (A) fails to record the name, address, and
26 physical description of the seller or pledgor;

27 (B) fails to record a complete description of the

1 amount and type of pesticide or compound, mixture, or preparation
2 purchased or received; and

3 (C) fails to obtain a signed warranty from the
4 seller or pledgor that the seller or pledgor has the right to
5 possess the property; ~~and~~

6 (9) an actor who is subject to Section 409, Packers and
7 Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from
8 a commission merchant by representing that the actor will make
9 prompt payment is presumed to have induced the commission
10 merchant's consent by deception if the actor fails to make full
11 payment in accordance with Section 409, Packers and Stockyards Act
12 (7 U.S.C. Section 228b); and

13 (10) an actor in possession of property consisting of
14 two or more catalytic converters that have been removed from two or
15 more motor vehicles is presumed to have unlawfully appropriated the
16 property unless the actor:

17 (A) is the owner of each vehicle from which the
18 catalytic converters were removed;

19 (B) possessed the catalytic converters in the
20 ordinary course of engaging in a business that is required to be
21 licensed or registered, or is otherwise regulated, by this state or
22 a political subdivision of this state, including:

23 (i) an automotive wrecking and salvage
24 yard, as defined by Section 234.001, Local Government Code;

25 (ii) a metal recycling entity registered
26 under Chapter 1956, Occupations Code;

27 (iii) a dealer licensed under Chapter 2301,

1 Occupations Code; or

2 (iv) a garage or shop that is engaged in the
3 business of repairing motor vehicles and subject to Chapter 2305,

4 Occupations Code; or

5 (C) is an employee or agent of a person described
6 by Paragraph (B) and the actor possessed the catalytic converters
7 while performing a duty within the scope of that employment or
8 agency.

9 (e) Except as provided by Subsections [~~Subsection~~] (f) and
10 (f-1), an offense under this section is:

11 (1) a Class C misdemeanor if the value of the property
12 stolen is less than \$100;

13 (2) a Class B misdemeanor if:

14 (A) the value of the property stolen is \$100 or
15 more but less than \$750;

16 (B) the value of the property stolen is less than
17 \$100 and the defendant has previously been convicted of any grade of
18 theft; or

19 (C) the property stolen is a driver's license,
20 commercial driver's license, or personal identification
21 certificate issued by this state or another state;

22 (3) a Class A misdemeanor if the value of the property
23 stolen is \$750 or more but less than \$2,500;

24 (4) a state jail felony if:

25 (A) the value of the property stolen is \$2,500 or
26 more but less than \$30,000, or the property is less than 10 head of
27 sheep, swine, or goats or any part thereof under the value of

1 \$30,000;

2 (B) regardless of value, the property is stolen
3 from the person of another or from a human corpse or grave,
4 including property that is a military grave marker;

5 (C) the property stolen is a firearm[~~, as defined~~
6 ~~by Section 46.01~~];

7 (D) the value of the property stolen is less than
8 \$2,500 and the defendant has been previously convicted two or more
9 times of any grade of theft;

10 (E) the property stolen is an official ballot or
11 official carrier envelope for an election; ~~or~~

12 (F) the value of the property stolen is less than
13 \$20,000 and the property stolen is:

14 (i) aluminum;

15 (ii) bronze;

16 (iii) copper; or

17 (iv) brass; or

18 (G) the value of the property stolen is less than
19 \$30,000 and the property stolen is a catalytic converter;

20 (5) a felony of the third degree if the value of the
21 property stolen is \$30,000 or more but less than \$150,000, or the
22 property is:

23 (A) cattle, horses, or exotic livestock or exotic
24 fowl as defined by Section 142.001, Agriculture Code, stolen during
25 a single transaction and having an aggregate value of less than
26 \$150,000;

27 (B) 10 or more head of sheep, swine, or goats

1 stolen during a single transaction and having an aggregate value of
2 less than \$150,000; or

3 (C) a controlled substance, having a value of
4 less than \$150,000, if stolen from:

5 (i) a commercial building in which a
6 controlled substance is generally stored, including a pharmacy,
7 clinic, hospital, nursing facility, or warehouse; or

8 (ii) a vehicle owned or operated by a
9 wholesale distributor of prescription drugs;

10 (6) a felony of the second degree if:

11 (A) the value of the property stolen is \$150,000
12 or more but less than \$300,000; or

13 (B) the value of the property stolen is less than
14 \$300,000 and the property stolen is an automated teller machine or
15 the contents or components of an automated teller machine; or

16 (7) a felony of the first degree if the value of the
17 property stolen is \$300,000 or more.

18 (f-1) An offense described for purposes of punishment by
19 Subsections (e)(4)-(6) is increased to the next higher category of
20 offense if it is shown on the trial of the offense that:

21 (1) the property stolen is a catalytic converter; and

22 (2) the actor possessed a firearm during the
23 commission of the offense.

24 SECTION 3. Section 31.03(h), Penal Code, is amended by
25 adding Subdivisions (7) and (8) to read as follows:

26 (7) "Catalytic converter" includes any material
27 removed from a catalytic converter.

1 (8) "Firearm" has the meaning assigned by Section
2 46.01.

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

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