

By: Bettencourt

S.B. No. 465

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain criminal conduct involving a catalytic
3 converter; creating a criminal offense; increasing criminal
4 penalties.

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

6 SECTION 1. Section 28.03(b), Penal Code, is amended to read
7 as follows:

8 (b) Except as provided by Subsections (f) and (h), an
9 offense under this section is:

10 (1) a Class C misdemeanor if:

11 (A) the amount of pecuniary loss is less than
12 \$100; or

13 (B) except as provided in Subdivision (3)(A) or
14 (3)(B), it causes substantial inconvenience to others;

15 (2) a Class B misdemeanor if the amount of pecuniary
16 loss is \$100 or more but less than \$750;

17 (3) a Class A misdemeanor if:

18 (A) the amount of pecuniary loss is \$750 or more
19 but less than \$2,500; or

20 (B) the actor causes in whole or in part
21 impairment or interruption of any public water supply, or causes to
22 be diverted in whole, in part, or in any manner, including
23 installation or removal of any device for any such purpose, any
24 public water supply, regardless of the amount of the pecuniary

1 loss;

2 (4) a state jail felony if the amount of pecuniary loss
3 is:

4 (A) \$2,500 or more but less than \$30,000;

5 (B) less than \$2,500, if the property damaged or
6 destroyed is a habitation and if the damage or destruction is caused
7 by a firearm or explosive weapon;

8 (C) less than \$2,500, if the property was a fence
9 used for the production or containment of:

10 (i) cattle, bison, horses, sheep, swine,
11 goats, exotic livestock, or exotic poultry; or

12 (ii) game animals as that term is defined by
13 Section 63.001, Parks and Wildlife Code; [~~or~~]

14 (D) less than \$30,000 and the actor:

15 (i) causes wholly or partly impairment or
16 interruption of property used for flood control purposes or a dam or
17 of public communications, public transportation, public gas or
18 power supply, or other public service; or

19 (ii) causes to be diverted wholly, partly,
20 or in any manner, including installation or removal of any device
21 for any such purpose, any public communications or public gas or
22 power supply; or

23 (E) less than \$30,000, if the property is a motor
24 vehicle that is damaged, destroyed, or tampered with during the
25 removal or attempted removal of a catalytic converter from the
26 motor vehicle;

27 (5) a felony of the third degree if:

1 (A) the amount of the pecuniary loss is \$30,000
2 or more but less than \$150,000;

3 (B) the actor, by discharging a firearm or other
4 weapon or by any other means, causes the death of one or more head of
5 cattle or bison or one or more horses; or

6 (C) the actor causes wholly or partly impairment
7 or interruption of access to an automated teller machine,
8 regardless of the amount of the pecuniary loss;

9 (6) a felony of the second degree if the amount of
10 pecuniary loss is \$150,000 or more but less than \$300,000; or

11 (7) a felony of the first degree if the amount of
12 pecuniary loss is \$300,000 or more.

13 SECTION 2. Section 31.03(e), Penal Code, is amended to read
14 as follows:

15 (e) Except as provided by Subsection (f), an offense under
16 this section is:

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

19 (2) a Class B misdemeanor if:

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

22 (B) the value of the property stolen is less than
23 \$100 and the defendant has previously been convicted of any grade of
24 theft; or

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

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

3 (4) a state jail felony if:

4 (A) the value of the property stolen is \$2,500 or
5 more but less than \$30,000, or the property is less than 10 head of
6 sheep, swine, or goats or any part thereof under the value of
7 \$30,000;

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

11 (C) the property stolen is a firearm, as defined
12 by Section 46.01;

13 (D) the value of the property stolen is less than
14 \$2,500 and the defendant has been previously convicted two or more
15 times of any grade of theft;

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

18 (F) the value of the property stolen is less than
19 \$20,000 and the property stolen is:

20 (i) aluminum;

21 (ii) bronze;

22 (iii) copper; or

23 (iv) brass; or

24 (G) the value of the property stolen is less than
25 \$30,000 and the property stolen is a catalytic converter;

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

1 property is:

2 (A) cattle, horses, or exotic livestock or exotic
3 fowl as defined by Section 142.001, Agriculture Code, stolen during
4 a single transaction and having an aggregate value of less than
5 \$150,000;

6 (B) 10 or more head of sheep, swine, or goats
7 stolen during a single transaction and having an aggregate value of
8 less than \$150,000; or

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

11 (i) a commercial building in which a
12 controlled substance is generally stored, including a pharmacy,
13 clinic, hospital, nursing facility, or warehouse; or

14 (ii) a vehicle owned or operated by a
15 wholesale distributor of prescription drugs;

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

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

19 (B) the value of the property stolen is less than
20 \$300,000 and the property stolen is an automated teller machine or
21 the contents or components of an automated teller machine; or

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

24 SECTION 3. Chapter 31, Penal Code, is amended by adding
25 Section 31.21 to read as follows:

26 Sec. 31.21. UNAUTHORIZED POSSESSION OF CATALYTIC
27 CONVERTER. (a) A person commits an offense if the person:

1 (1) intentionally or knowingly possesses a catalytic
2 converter that has been removed from a motor vehicle; and

3 (2) is not a person who is authorized under Subsection
4 (b) to possess the catalytic converter.

5 (b) A person is presumed to be authorized to possess a
6 catalytic converter that has been removed from a motor vehicle if
7 the person:

8 (1) is the owner, as defined by Section 601.002,
9 Transportation Code, of the vehicle from which the catalytic
10 converter was removed;

11 (2) possesses the catalytic converter in the ordinary
12 course of the person's business, including:

13 (A) an automotive wrecking and salvage yard, as
14 defined by Section 234.001, Local Government Code;

15 (B) a metal recycling entity registered under
16 Chapter 1956, Occupations Code;

17 (C) a dealer or converter licensed under Chapter
18 2301, Occupations Code;

19 (D) a salvage vehicle dealer licensed under
20 Chapter 2302, Occupations Code, or a salvage pool operator, as
21 defined by Section 2302.001 of that code;

22 (E) a vehicle storage facility licensed under
23 Chapter 2303, Occupations Code;

24 (F) a garage or shop that is engaged in the
25 business of repairing motor vehicles and subject to Chapter 2305,
26 Occupations Code;

27 (G) a towing company licensed under Chapter 2308,

1 Occupations Code;

2 (H) a used automotive parts recycler, as defined
3 by Section 2309.002, Occupations Code;

4 (I) a person who holds a dealer general
5 distinguishing number under Chapter 503, Transportation Code;

6 (J) a motor vehicle demolisher, as defined by
7 Section 683.001, Transportation Code;

8 (K) a person located in and regulated by another
9 state, or a political subdivision of another state, in the
10 performance of a business activity for which a person would be
11 regulated in the performance of that activity under a law described
12 in Paragraphs (A) through (J) by this state or a political
13 subdivision of this state;

14 (L) a person located in a jurisdiction outside of
15 the United States that operates in a business form recognized by the
16 laws of the other jurisdiction and imports catalytic converters
17 into the United States in accordance with the Harmonized Tariff
18 Schedule of the United States International Trade Commission; and

19 (M) a for-hire carrier, including a person who
20 provides services such as mail, freight, or package delivery by
21 air, water, rail, or surface transportation; or

22 (3) is an employee of or independent contractor
23 providing services to a person described by Subdivision (2) and
24 possesses the catalytic converter while acting within the course
25 and scope of the person's employment or independent contractor
26 services.

27 (c) The presumption established under Subsection (b) does

1 not apply to a person described by Subsection (b)(2) or (3) who
2 knows that the catalytic converter was unlawfully removed from a
3 motor vehicle or otherwise unlawfully obtained.

4 (d) Except as provided by Subsection (e), an offense under
5 this section is a state jail felony.

6 (e) An offense under this section is a felony of the third
7 degree if it is shown on the trial of the offense that the person:

8 (1) has been previously convicted of an offense under
9 this section; or

10 (2) in connection with the offense, engaged in conduct
11 constituting conspiracy under Section 15.02 to commit an offense
12 under Section 28.03 or 31.03 with respect to a catalytic converter.

13 (f) If conduct constituting an offense under this section
14 also constitutes an offense under any other law, the actor may be
15 prosecuted under this section, the other law, or both.

16 SECTION 4. Section 71.02(a), Penal Code, is amended to read
17 as follows:

18 (a) A person commits an offense if, with the intent to
19 establish, maintain, or participate in a combination or in the
20 profits of a combination or as a member of a criminal street gang,
21 the person commits or conspires to commit one or more of the
22 following:

23 (1) murder, capital murder, arson, aggravated
24 robbery, robbery, burglary, theft, aggravated kidnapping,
25 kidnapping, aggravated assault, aggravated sexual assault, sexual
26 assault, continuous sexual abuse of young child or disabled
27 individual, solicitation of a minor, forgery, deadly conduct,

1 assault punishable as a Class A misdemeanor, burglary of a motor
2 vehicle, or unauthorized use of a motor vehicle;

3 (2) any gambling offense punishable as a Class A
4 misdemeanor;

5 (3) promotion of prostitution, aggravated promotion
6 of prostitution, or compelling prostitution;

7 (4) unlawful manufacture, transportation, repair, or
8 sale of firearms or prohibited weapons;

9 (5) unlawful manufacture, delivery, dispensation, or
10 distribution of a controlled substance or dangerous drug, or
11 unlawful possession of a controlled substance or dangerous drug
12 through forgery, fraud, misrepresentation, or deception;

13 (5-a) causing the unlawful delivery, dispensation, or
14 distribution of a controlled substance or dangerous drug in
15 violation of Subtitle B, Title 3, Occupations Code;

16 (6) any unlawful wholesale promotion or possession of
17 any obscene material or obscene device with the intent to wholesale
18 promote the same;

19 (7) any offense under Subchapter B, Chapter 43,
20 depicting or involving conduct by or directed toward a child
21 younger than 18 years of age;

22 (8) any felony offense under Chapter 32;

23 (9) any offense under Chapter 36;

24 (10) any offense under Chapter 34, 35, or 35A;

25 (11) any offense under Section 37.11(a);

26 (12) any offense under Chapter 20A;

27 (13) any offense under Section 37.10;

- 1 (14) any offense under Section 38.06, 38.07, 38.09, or
2 38.11;
3 (15) any offense under Section 42.10;
4 (16) any offense under Section 46.06(a)(1) or 46.14;
5 (17) any offense under Section 20.05 or 20.06;
6 (18) any offense under Section 16.02; [~~or~~]
7 (19) an offense under Section 28.03 that is punishable
8 under Subsection (b)(4)(E) of that section;
9 (20) an offense under Section 31.21 that is punishable
10 under Subsection (d) of that section; or
11 (21) any offense classified as a felony under the Tax
12 Code.

13 SECTION 5. The changes in law made by this Act apply only to
14 an offense committed on or after the effective date of this Act. An
15 offense committed before the effective date of this Act is governed
16 by the law in effect on the date the offense was committed, and the
17 former law is continued in effect for that purpose. For purposes of
18 this section, an offense was committed before the effective date of
19 this Act if any element of the offense was committed before that
20 date.

21 SECTION 6. This Act takes effect September 1, 2023.