

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-22-15

Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SD 1828 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini
ZAFFIRINI

Allen Fletcher
FLETCHER

Joan Huffman
HUFFMAN

Don Flynn
FLYNN

B Creighton
CREIGHTON

Phil King
KING, PHIL

J-J Hinojosa
HINOJOSA

David Koop
KOOP

Meneilly
MENEILLY
On the part of the Senate

E. Rodriguez
RODRIGUEZ
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1828

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of cargo theft.

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

SECTION 1. The heading to Article 13.08, Code of Criminal Procedure, is amended to read as follows:

Art. 13.08. THEFT; ORGANIZED RETAIL THEFT; CARGO THEFT.

SECTION 2. Article 13.08(b), Code of Criminal Procedure, is amended to read as follows:

(b) An offense under Section 31.16 or 31.18, Penal Code, may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

SECTION 3. Chapter 31, Penal Code, is amended by adding Section 31.18 to read as follows:

Sec. 31.18. CARGO THEFT. (a) In this section:

(1) "Cargo" means goods, as defined by Section 7.102, Business & Commerce Code, that constitute, wholly or partly, a commercial shipment of freight moving in commerce. A shipment is considered to be moving in commerce if the shipment is located at any point between the point of origin and the final point of destination regardless of any temporary stop that is made for the purpose of transshipment or otherwise.

(2) "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person commits an offense if the person:

1 (1) knowingly or intentionally conducts, promotes, or
2 facilitates an activity in which the person receives, possesses,
3 conceals, stores, barter, sells, abandons, or disposes of:

4 (A) stolen cargo; or

5 (B) cargo explicitly represented to the person as
6 being stolen cargo; or

7 (2) is employed as a driver lawfully contracted to
8 transport a specific cargo by vehicle from a known point of origin
9 to a known point of destination and, with the intent to conduct,
10 promote, or facilitate an activity described by Subsection (b)(1),
11 knowingly or intentionally:

12 (A) fails to deliver the entire cargo to the
13 known point of destination as contracted; or

14 (B) causes the seal to be broken on the vehicle or
15 on an intermodal container containing any part of the cargo.

16 (c) An offense under this section is:

17 (1) a state jail felony if the total value of the cargo
18 involved in the activity is \$1,500 or more but less than \$10,000;

19 (2) a felony of the third degree if the total value of
20 the cargo involved in the activity is \$10,000 or more but less than
21 \$100,000;

22 (3) a felony of the second degree if the total value of
23 the cargo involved in the activity is \$100,000 or more but less than
24 \$200,000; or

25 (4) a felony of the first degree if the total value of
26 the cargo involved in the activity is \$200,000 or more.

27 (d) For purposes of Subsection (c), the total value of the

1 cargo involved in the activity includes the value of any vehicle
2 stolen or damaged in the course of the same criminal episode as the
3 conduct that is the subject of the prosecution.

4 (e) An offense described for purposes of punishment by
5 Subsections (c)(1)-(3) is increased to the next higher category of
6 offense if it is shown on the trial of the offense that the person
7 organized, supervised, financed, or managed one or more other
8 persons engaged in an activity described by Subsection (b).

9 (f) It is not a defense to prosecution under this section
10 that:

11 (1) the offense occurred as a result of a deception or
12 strategy on the part of a law enforcement agency, including the use
13 of:

14 (A) an undercover operative or peace officer; or

15 (B) a bait vehicle;

16 (2) the actor was provided by a law enforcement agency
17 with a facility in which to commit the offense or with an
18 opportunity to engage in conduct constituting the offense; or

19 (3) the actor was solicited to commit the offense by a
20 peace officer, and the solicitation was of a type that would
21 encourage a person predisposed to commit the offense to actually
22 commit the offense but would not encourage a person not predisposed
23 to commit the offense to actually commit the offense.

24 SECTION 4. This Act takes effect September 1, 2015.

Senate Bill 1828
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTIONS 1 and 2. The heading to Article 13.08, and Article 13.08(b), Code of Criminal Procedure, are amended

SECTION 3. Chapter 31, Penal Code, is amended by adding Section 31.18 to read as follows:

Sec. 31.18. CARGO THEFT.

(a) In this section:

(1) "Cargo" means goods, as defined by Section 7.102, Business & Commerce Code, that constitute, wholly or partly, a commercial shipment of freight moving in commerce. A shipment is considered to be moving in commerce if the shipment is located at any point between the point of origin and the final point of destination regardless of any temporary stop that is made for the purpose of transshipment or otherwise.

(2) "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person commits an offense if the person:

(1) knowingly or intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, abandons, or disposes of:

(A) stolen cargo; or

(B) cargo explicitly represented to the person as being stolen cargo; or

(2) is employed as a driver lawfully contracted to transport a specific cargo by vehicle from a known point of origin to a known point of destination and, with the intent to conduct, promote, or facilitate an activity described by Subsection

(b)(1), knowingly or intentionally:

HOUSE VERSION (IE)

SECTIONS 1 and 2. Same as Senate version.

SECTION 3. Chapter 31, Penal Code, is amended by adding Section 31.18 to read as follows:

Sec. 31.18. CARGO THEFT.

(a) Same as Senate version.

(b) Same as Senate version.

CONFERENCE

SECTIONS 1 and 2. Same as Senate version.

SECTION 3. Chapter 31, Penal Code, is amended by adding Section 31.18 to read as follows:

Sec. 31.18. CARGO THEFT.

(a) Same as Senate version.

(b) Same as Senate version.

Senate Bill 1828
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

(A) fails to deliver the entire cargo to the known point of destination as contracted; or

(B) causes the seal to be broken on the vehicle or on an intermodal container containing any part of the cargo.

(c) An offense under this section is:

(1) a state jail felony if the total value of the cargo involved in the activity is less than \$10,000;

(2) a felony of the third degree if the total value of the cargo involved in the activity is \$10,000 or more but less than \$100,000;

(3) a felony of the second degree if the total value of the cargo involved in the activity is \$100,000 or more but less than \$200,000; or

(4) a felony of the first degree if the total value of the cargo involved in the activity is \$200,000 or more.

(d) For purposes of Subsection (c), the total value of the cargo involved in the activity includes the value of any vehicle stolen or damaged in the course of the same criminal episode as the conduct that is the subject of the prosecution.

(e) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b).

(c) An offense under this section is:

(1) a state jail felony if the total value of the cargo involved in the activity is ***\$1,500 or more but*** less than \$10,000; [FA1(1)]

(2) a felony of the third degree if the total value of the cargo involved in the activity is \$10,000 or more but less than \$100,000;

(3) a felony of the second degree if the total value of the cargo involved in the activity is \$100,000 or more but less than \$200,000; or

(4) a felony of the first degree if the total value of the cargo involved in the activity is \$200,000 or more.

(d) For purposes of Subsections (c) ***and (g)***, the total value of the cargo involved in the activity includes the value of any vehicle stolen or damaged in the course of the same criminal episode as the conduct that is the subject of the prosecution. [FA1(2)]

(e) Same as Senate version.

(c) Same as House version.

(d) Same as Senate version.

(e) Same as Senate version.

Senate Bill 1828
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (IE)

CONFERENCE

(f) It is not a defense to prosecution under this section that:
(1) the offense occurred as a result of a deception or strategy on the part of a law enforcement agency, including the use of:
(A) an undercover operative or peace officer; or
(B) a bait vehicle;
(2) the actor was provided by a law enforcement agency with a facility in which to commit the offense or with an opportunity to engage in conduct constituting the offense; or
(3) the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense but would not encourage a person not predisposed to commit the offense to actually commit the offense.

(f) Same as Senate version.

(f) Same as Senate version.

No equivalent provision.

(g) It is an exception to the application of this section that the total value of the cargo involved in the activity is less than \$1,500. [FA1(3)]

Same as Senate version.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 4. Same as Senate version.

SECTION 4. Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 23, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1828 by Zaffirini (Relating to the creation of the offense of cargo theft.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by creating the offense of cargo theft. Under the provisions of the bill, cargo theft would be punishable at most felony degrees, with the punishment degree based on the specifics of the offense. This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: UP, SD, KJo, LM, JPo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 23, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB1828 by Zaffirini (Relating to the creation of the offense of cargo theft.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code by creating the offense of cargo theft. Under the provisions of the bill, cargo theft would be punishable at most felony degrees, with the punishment degree based on the specific circumstances of the offense. The bill would also provide for punishment to be enhanced to the next higher category in certain circumstances.

A first degree felony is punishable by confinement in prison for life or five to 99 years, a second degree felony for two to 20 years, a third degree felony for two to ten years, and a state jail felony is punishable by confinement in a state jail for 180 days to two years. In addition to confinement certain felony level offenses are subject to an optional fine not to exceed \$10,000.

Creating an offense is expected to increase demands on state correctional resources by increasing the number of offenders eligible for placement under felony supervision and confinement in state correctional facilities. This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, LM, JPo

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on SB 1828 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Allen Felt
(name)

MAY 22 2015
(date)