Chapter 308

H.B. No. 1887

AN ACT

relating to the punishment for and prevention of the offense of burglary of vehicles.

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

SECTION 1. Section 30.04, Penal Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) An offense under this section is a Class A misdemeanor, except that:

(1) the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section; and

(2) the offense is a state jail felony if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(B) [~~unless~~] the vehicle or part of the vehicle broken into or entered is a rail car[~~, in which event the offense is a state jail felony~~].

(d-1) For the purposes of Subsection (d), a defendant has been previously convicted under this section if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication,

regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

SECTION 2. Section 3, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) The minimum period of community supervision under this section for an offense under Section 30.04, Penal Code, punishable as a Class A misdemeanor with a minimum term of confinement of six months is one year.

SECTION 3. Section 4, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) The minimum period of community supervision under this section for an offense under Section 30.04, Penal Code, punishable as a Class A misdemeanor with a minimum term of confinement of six months is one year.

SECTION 4. The heading to Article 4413(37), Revised Statutes, is amended to read as follows:

Art. 4413(37). AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY.

SECTION 5. Sections 1(1) and (2), Article 4413(37), Revised Statutes, are amended to read as follows:

(1) "Authority" means the Automobile Burglary and Theft Prevention Authority.

(2) "Economic automobile theft" means automobile burglary or theft committed for financial gain.

SECTION 6. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. The Automobile Burglary and Theft Prevention Authority is established in the Texas Department of Transportation. The authority is not an advisory body to the Texas Department of Transportation.

SECTION 7. Section 6A(d), Article 4413(37), Revised Statutes, is amended to read as follows:

(d) Determinations made under this section shall be performed in accordance with procedures set forth in rules adopted by the authority [~~Automobile Theft Prevention Authority~~]. The question of eligibility for a refund is not a contested case within the meaning of the Administrative Procedure Act (Chapter 2001, Government Code).

SECTION 8. Section 7(b), Article 4413(37), Revised Statutes, is amended to read as follows:

(b) The plan of operation must include:

(1) an assessment of the scope of the problems of automobile burglary or theft and economic automobile theft, including particular areas of the state where the problems are greatest;

(2) an analysis of various methods of combating the problems of automobile burglary or theft and economic automobile theft;

(3) a plan for providing financial support to combat automobile burglary or theft and economic automobile theft; and

(4) an estimate of the funds required to implement the plan of operation.

SECTION 9. Section 8(a), Article 4413(37), Revised

Statutes, is amended to read as follows:

(a) Money appropriated to the department for authority purposes shall be used by the authority to pay the department for administrative costs and to achieve the purposes of this article, including:

(1) establishing and funding the automobile registration program required by Section 9 of this article;

(2) providing financial support to law enforcement agencies for economic automobile theft enforcement teams;

(3) providing financial support to law enforcement agencies, local prosecutors, judicial agencies, and neighborhood, community, business, and nonprofit organizations for programs designed to reduce the incidence of economic automobile theft;

(4) conducting educational programs designed to inform automobile owners of methods of preventing automobile <u>burglary or</u> theft;

(5) providing equipment, for experimental purposes, to assist automobile owners in preventing automobile <u>burglary or</u> theft; and

(6) establishing a uniform program to prevent stolen motor vehicles from entering Mexico.

SECTION 10. Section 11(a), Article 4413(37), Revised Statutes, is amended to read as follows:

(a) In this section, "automobile theft rate" means the ratio of automobile <u>burglaries or</u> thefts in this state to the number of automobiles in this state. The ratio shall be based on statistical information provided by the Department of Public Safety's uniform

crime reporting division.

SECTION 11. The changes in law made by this Act to Section 30.04, Penal Code, and to Sections 3 and 4, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 12. This Act takes effect September 1, 2007.

H.B. No. 1887

David Dewhurst
President of the Senate

Tom Craddick
Speaker of the House

I certify that H.B. No. 1887 was passed by the House on April 5, 2007, by the following vote: Yeas 136, Nays 1, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1887 was passed by the Senate on May 15, 2007, by the following vote: Yeas 31, Nays 0.

Patsy Spaw
Secretary of the Senate

APPROVED: 15 JUN 07
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3PM O'CLOCK
JUN 15 2007
Roger Williams
Secretary of State