

CHAPTER 901

H.B. No. 1365

An Act relating to certain presumptions in the prosecution of theft offenses.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 31.03(c), Penal Code, is amended to read as follows:
(c) For purposes of Subsection (b)(2) of this section:

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, 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 him, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Article 6687-1, Vernon's Texas Civil Statutes) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A) ~~[(#)]~~ fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) ~~[(##)]~~ fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) ~~[(###)]~~ fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements[.]

(4) for the purposes of *Subdivision (3)(A) of this subsection* [~~Subparagraph (#) above~~], "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

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

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

(B) *fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by the Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes), or a certificate of title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or*

(C) *fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the State Department of Highways and Public Transportation, of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed; and*

(6) *an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:*

(A) *fails to report to the State Department of Highways and Public Transportation the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or*

(B) *fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Section 2, Chapter 364, Acts of the 50th Legislature, Regular Session, 1947 (Article 6687-6, Vernon's Texas Civil Statutes), at the time the motor vehicle was delivered.*

SECTION 2. Section 31.01, Penal Code, is amended by adding Subdivisions (9) and (10) to read as follows:

(9) "Certificate of title" has the meaning assigned by Section 24, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

(10) "Used or secondhand motor vehicle" means a used car, as that term is defined by Section 10, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

SECTION 3. Section 33, Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 33. No motor vehicle may be disposed of at a subsequent sale unless the owner designated in the certificate of title transfers the certificate of title, *at the time the motor vehicle is transferred*, on a form prescribed by the Department before a Notary Public. This form shall include, among such other matters as the Department may determine, an affidavit to the effect that the signer is the owner of the motor vehicle, and that there are no liens on the motor vehicle, except such as are shown on the certificate of title or are fully described in the affidavit, and stating the cumulative number of miles or kilometers travelled by the motor vehicle to the best of the knowledge of the transferor. No title to any motor vehicle shall pass or vest until the transfer is so executed.

SECTION 4. (a) The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) 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 this purpose.

SECTION 5. This Act takes effect September 1, 1985.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 13, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 1365 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 24, 1985, by the following vote: Yeas 29, Nays 0.

Approved: June 15, 1985

Effective: September 1, 1985