

BILL ANALYSIS

C.S.H.B. 2483
By: Parker
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that music piracy is a devastating economic crime and that many actors now make use of digital media to create a new breed of fraudulent music product. C.S.H.B. 2483 seeks to address this issue by providing deterrents against the digital distribution of pirated music.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2483 amends the Business & Commerce Code to remove as conduct that constitutes an offense relating to the improper labeling of a recording the failure to clearly and conspicuously disclose the name of the performer or group on the outside cover, box, or jacket of the recording. The bill, for purposes of the punishment for an offense relating to the improper labeling of a recording, replaces the specification that the conduct constituting such an offense involves an unauthorized recording with the specification that such conduct involves improperly labeled recordings and clarifies that the punishment for the offense is for an offense involving a certain number of improperly labeled recordings during a specified period or the commercial equivalent of that number of improperly labeled recordings during that specified period. The bill exempts a financial institution and an affiliate of a financial institution from the application of statutory provisions relating to the capture or use of biometric identifiers for a commercial purpose.

C.S.H.B. 2483 amends the Code of Criminal Procedure to require a court to order a person convicted of an offense of improper labeling to make restitution to an owner or lawful producer of a master recording that has suffered financial loss as a result of the offense or to a trade association that represents that owner or lawful producer and sets out provisions regarding the amount of restitution to be ordered.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2483 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Section 641.001(4), Business & Commerce Code, is amended.

SECTION 2. Section 641.054, Business & Commerce Code, is amended.

SECTION 3. Section 641.055, Business & Commerce Code, is amended to read as follows:

Sec. 641.055. FORFEITURE. If a person is convicted of an offense under [~~a violation of~~] this chapter, the court in its judgment of conviction shall order the forfeiture and destruction or other disposition of:

(1) all recordings on which the conviction is based; ~~and~~

(2) all devices and equipment used or intended to be used in the manufacture of the recordings on which the conviction is based; and

(3) for an offense punishable as a felony, all contraband that is used in the commission of the offense, as provided by Chapter 59, Code of Criminal Procedure.

SECTION 4. Article 42.037, Code of Criminal Procedure, is amended.

SECTION 5. Article 59.01(2), Code of Criminal Procedure, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 20.06, 21.11, 38.04, or Chapter 43, 20A, 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 503.001, Business & Commerce Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a financial institution or an affiliate of a financial institution, as those terms are defined by 15 U.S.C. Section 6809.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

No equivalent provision.

SECTION 4. Same as introduced version.

No equivalent provision.

(Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 151, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(vii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;

(viii) a Class A misdemeanor under Section 306.051, Business & Commerce Code;

(ix) any offense under Section 42.10, Penal Code;

(x) any offense under Section 46.06(a)(1) or 46.14, Penal Code;

(xi) any offense under Chapter 71, Penal Code;

(xii) any offense under Section 20.05 or 20.06, Penal Code; ~~or~~

(xiii) an offense under Section 326.002, Business & Commerce Code; or

(xiv) any felony under Chapter 641, Business & Commerce Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of this subdivision, or a crime of violence;

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code; or

(F) used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

SECTION 6. The change in law made by this Act applies 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 governed by the law in effect at the time the offense was committed. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 5. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act 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 governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The change in law made by this Act to Section 503.001, Business & Commerce Code, applies only to a violation that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.