

## **BILL ANALYSIS**

Senate Research Center  
85R18118 MEW-D

C.S.S.B. 1790  
By: Taylor, Van  
Criminal Justice  
5/2/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties note that the penalty for fraudulent destruction, removal, or concealment of a writing that is attached to tangible property is higher than the penalty for stealing that same tangible property in many instances. For example, swapping the price tag of a \$10 product with a \$5 product is subject to a Class A misdemeanor, punishable by up to \$4,000 and a year in jail. Simply stealing the \$10 product outright, however, only results in a Class C misdemeanor. This means that offenders are punished more harshly for swapping the price tag of an item than for stealing it outright. Interested parties note that the rigid penalty structure of price tag fraud does not make sense given the fluid penalty ladder for theft. These parties contend the penalty structure for price tag fraud should scale with the value of the items.

S.B. 1790 scales the offense of fraudulent destruction, removal or concealment of a writing similarly to that of the theft penalty ladder. Under this bill, defrauded property valued up to \$100 results in a Class C misdemeanor, up to \$750 results in a Class B misdemeanor, and up to \$2,500 results in a Class A misdemeanor. The bill scales all the way up to a first degree felony for property valued over \$300,000. This change will ensure that serious fraud is still punished forcefully while petty crimes do not clog Texas prisons and that the severity of a punishment matches that of the crime. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1790 amends current law relating to the punishment for the offense of fraudulent destruction, removal, or concealment of a writing that is attached to tangible property.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 32.47, Penal Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Provides that, except as provided by Subsection (d), an offense under this section is a Class A misdemeanor, provided that:

(1) the writing is not attached to tangible property to indicate the price for the sale of that property; and

(2) the actor did not engage in the conduct described by Subsection (a) (relating to a person committing an offense if certain criteria are met) with respect to that writing for the purpose of obtaining the property for a lesser price indicated by a separate writing.

Makes a nonsubstantive change.

(e) Provides that, if at the time of the offense the writing was attached to tangible property to indicate the price for the sale of that property and the actor engaged in the conduct described by Subsection (a) with respect to that writing for the purpose of

obtaining the property for a lesser price indicated by a separate writing, an offense under this section is:

- (1) a Class C misdemeanor if the difference between the impaired writing and the lesser price indicated by the other writing is less than \$100;
- (2) a Class B misdemeanor if the difference between the impaired writing and the lesser price indicated by the other writing is \$100 or more but less than \$750;
- (3) a Class A misdemeanor if the difference between the impaired writing and the lesser price indicated by the other writing is \$750 or more but less than \$2,500;
- (4) a state jail felony if the difference between the impaired writing and the lesser price indicated by the other writing is \$2,500 or more but less than \$30,000;
- (5) a felony of the third degree if the difference between the impaired writing and the lesser price indicated by the other writing is \$30,000 or more but less than \$150,000;
- (6) a felony of the second degree if the difference between the impaired writing and the lesser price indicated by the other writing is \$150,000 or more but less than \$300,000; or
- (7) a felony of the first degree if the difference between the impaired writing and the lesser price indicated by the other writing is \$300,000 or more.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.