

NOTES on HB 687

HB 687 is designed to target smugglers by creating a tougher smuggling statute in Texas. This bill would do several things. 1. It would remove the “pecuniary benefit” from proving smuggling and change that into a penalty enhancement. 2. It would also add charging enhancements to the smugglers for carrying a firearm or for fleeing from law enforcement or border patrol. 3. Finally, it would make it a felony to “guide” people across agricultural lands while trespassing.

One aim of HB 687 is to ensure that no person is made a victim of a crime by reducing the risk to vulnerable populations. While many smuggled persons actually pay for the opportunity to be smuggled, they are often targets of human traffickers. Smugglers also threaten the security of people who live in isolated areas. However, because immigration is a Federal responsibility, HB 687 is not an immigration bill. Rather, it is aimed at smugglers who are a threat to smuggled people and people who live in remote areas.

Currently, it is difficult to prove “pecuniary interest” because the smuggled persons often do not want to testify against their guide. This may be due to promises of future guide services or threat against the smuggled persons or their families. Also, the logistics and of keeping a smuggled person in custody long enough to testify against their smuggler is problematic.

Smugglers who take persons across the vast expanses of agricultural land in South Texas often do so with no care for their welfare. This bill is also a response to the deaths of hundreds of immigrants over the last decade when attempting to traverse large areas of land that, in many cases, don’t have above ground water sources. A low point was in 2012 with 128 bodies found in the brush in Brooks County alone. The cost of burying these victims nearly bankrupted the county. It can be safely assumed that not all of the victims were found, leaving many families with no closure to their loved one’s fate. Because most immigrants are guided, this means that the guide failed to protect the life of the immigrant and consequently, in my mind, the immigrant is a murder victim.

High speed chases are deadly to the immigrants and to other people on the road, as well as costly to property owners. The most often fatalities are immigrants who are hiding in poorly secured areas of vehicles. Vehicle crashes have also been known to cause the deaths of innocent bystanders. And, expensive livestock fences, gates and other property have been destroyed or damaged by fleeing smugglers taking years of a farmer or rancher’s investments. Under the current law, the Border Patrol Agents, unlike a variety of other federal agents, are limited to felony arrests only at a port, port of entry or at a permanent checkpoint. This would allow state prosecutors to prosecute smugglers who evade arrest or detention and put people’s lives at risk.

This bill would help to safeguard people who live in isolated areas. With emergency services often hours away, people who live in isolate areas often feel threatened by large groups of people who are trespassing and often guided by a member of a cartel known for violence. While a vast majority of immigrants pose no physical threat to residents, the unlawful presence in isolated areas can cause serious concerns. And, with the only possible state charge against the smuggler being a class A misdemeanor trespass, the smugglers feel impervious.

Please feel free to call if you have any questions.

Respectfully,
John T. Hubert