

AN ACT

relating to the offense of possessing another person's official ballot or official carrier envelope.

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

SECTION 1. Section 86.006, Election Code, is amended by amending Subsection (f) and adding Subsection (i) to read as follows:

(f) A person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code to another. Unless the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority, ~~[it is an affirmative defense to prosecution under]~~ this subsection does not apply to a ~~[that the]~~ person who, on the date of the offense, was:

(1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code;

(2) registered to vote at the same address as the voter;

(3) an early voting clerk or a deputy early voting clerk;

(4) a person who possesses the carrier envelope in order to deposit the envelope in the mail or with a common or contract carrier and who provides the information required by

1 Section 86.0051(b) in accordance with that section;

2 (5) an employee of the United States Postal Service
3 working in the normal course of the employee's authorized duties;
4 or

5 (6) a common or contract carrier working in the normal
6 course of the carrier's authorized duties if the official ballot is
7 sealed in an official carrier envelope that is accompanied by an
8 individual delivery receipt for that particular carrier envelope.

9 (i) In the prosecution of an offense under Subsection (f):

10 (1) the prosecuting attorney is not required to negate
11 the applicability of the provisions of Subsections (f)(1)-(6) in
12 the accusation charging commission of an offense;

13 (2) the issue of the applicability of a provision of
14 Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to
15 the jury unless evidence of that provision is admitted; and

16 (3) if the issue of the applicability of a provision of
17 Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the
18 jury, the court shall charge that a reasonable doubt on the issue
19 requires that the defendant be acquitted.

20 SECTION 2. The change in law made by this Act applies only
21 to an offense committed on or after September 1, 2007. An offense
22 committed before September 1, 2007, is covered by the law in effect
23 when the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this section, an offense
25 was committed before September 1, 2007, if any element of the
26 offense occurred before that date.

27 SECTION 3. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1987 was passed by the House on April 11, 2007, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1987 on May 14, 2007, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1987 was passed by the Senate, with amendments, on May 10, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor