

1-1 By: Berman (Senate Sponsor - Duncan) H.B. No. 1987  
1-2 (In the Senate - Received from the House April 12, 2007;  
1-3 April 12, 2007, read first time and referred to Committee on State  
1-4 Affairs; April 30, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 April 30, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1987 By: Duncan

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the offense of possessing another person's official  
1-11 ballot or official carrier envelope.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 86.006, Election Code, is amended by  
1-14 amending Subsection (f) and adding Subsection (i) to read as  
1-15 follows:

1-16 (f) A person commits an offense if the person knowingly  
1-17 possesses an official ballot or official carrier envelope provided  
1-18 under this code to another. Unless the person possessed the ballot  
1-19 or carrier envelope with intent to defraud the voter or the election  
1-20 authority, ~~[it is an affirmative defense to prosecution under]~~ this  
1-21 subsection does not apply to a ~~[that the]~~ person who, on the date of  
1-22 the offense, was:

1-23 (1) related to the voter within the second degree by  
1-24 affinity or the third degree by consanguinity, as determined under  
1-25 Subchapter B, Chapter 573, Government Code;

1-26 (2) registered to vote at the same address as the  
1-27 voter;

1-28 (3) an early voting clerk or a deputy early voting  
1-29 clerk;

1-30 (4) a person who possesses the carrier envelope in  
1-31 order to deposit the envelope in the mail or with a common or  
1-32 contract carrier and who provides the information required by  
1-33 Section 86.0051(b) in accordance with that section;

1-34 (5) an employee of the United States Postal Service  
1-35 working in the normal course of the employee's authorized duties;  
1-36 or

1-37 (6) a common or contract carrier working in the normal  
1-38 course of the carrier's authorized duties if the official ballot is  
1-39 sealed in an official carrier envelope that is accompanied by an  
1-40 individual delivery receipt for that particular carrier envelope.

1-41 (i) In the prosecution of an offense under Subsection (f):

1-42 (1) the prosecuting attorney is not required to negate  
1-43 the applicability of the provisions of Subsections (f)(1)-(6) in  
1-44 the accusation charging commission of an offense;

1-45 (2) the issue of the applicability of a provision of  
1-46 Subsection (f)(1), (2), (3), (4), (5), or (6) is not submitted to  
1-47 the jury unless evidence of that provision is admitted; and

1-48 (3) if the issue of the applicability of a provision of  
1-49 Subsection (f)(1), (2), (3), (4), (5), or (6) is submitted to the  
1-50 jury, the court shall charge that a reasonable doubt on the issue  
1-51 requires that the defendant be acquitted.

1-52 SECTION 2. The change in law made by this Act applies only  
1-53 to an offense committed on or after September 1, 2007. An offense  
1-54 committed before September 1, 2007, is covered by the law in effect  
1-55 when the offense was committed, and the former law is continued in  
1-56 effect for that purpose. For purposes of this section, an offense  
1-57 was committed before September 1, 2007, if any element of the  
1-58 offense occurred before that date.

1-59 SECTION 3. This Act takes effect September 1, 2007.

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