

By: Riddle

H.B. No. 49

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the offense of criminal trespass by
3 illegal aliens and to certain procedures for arresting illegal
4 aliens suspected of committing criminal offenses.

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

6 SECTION 1. Chapter 30, Penal Code, is amended by adding
7 Section 30.055 to read as follows:

8 Sec. 30.055. CRIMINAL TRESPASS BY ILLEGAL ALIENS. (a) A
9 person commits an offense if the person:

10 (1) is a citizen of any country other than the United
11 States; and

12 (2) enters or remains on or in any public or private
13 property in this state in violation of 8 U.S.C. Section 1325 or
14 1326.

15 (b) An offense under this section is a Class B misdemeanor.

16 SECTION 2. Article 14.03, Code of Criminal Procedure, is
17 amended by adding Subsection (h) to read as follows:

18 (h)(1) In the course of acting on a reasonable suspicion
19 that a person is committing or has committed an offense, including
20 an offense under Section 30.055, Penal Code, a peace officer may
21 arrest the person without a warrant if the peace officer before
22 making the arrest seeks and receives confirmation from the United
23 States Immigration and Customs Enforcement component of the United
24 States Department of Homeland Security that the person is an alien

1 who is present in the United States in violation of 8 U.S.C. Section
2 1325 or 1326.

3 (2) On receiving the confirmation described by
4 Subdivision (1), the peace officer immediately shall take the
5 person before a magistrate in compliance with Article 14.06. After
6 placing under oath and questioning the peace officer and on a
7 finding of probable cause to believe the person arrested is an alien
8 who is present in the United States in violation of 8 U.S.C. Section
9 1325 or 1326, the magistrate may issue a state warrant under this
10 subsection. The warrant must specify the applicable violation or
11 violations of federal criminal law as previously confirmed with the
12 United States Department of Homeland Security as described by
13 Subdivision (1). A warrant issued under this subsection expires on
14 the earlier of:

15 (A) the time the person is transferred into
16 federal custody; or

17 (B) 72 hours after issuance.

18 SECTION 3. This Act takes effect September 1, 2009.