



THE ATTORNEY GENERAL
OF TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

AUSTIN 11, TEXAS

April 21, 1955

Hon. Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Opinion No. MS-202

Re: Construction of Senate Bill 74,
54th Legislature, amending
Article 1404b, V.P.C.

Dear Governor Shivers:

You have asked for the opinion of this office as to whether Senate Bill 74, as passed by the 54th Legislature, enlarges or restricts the present Texas Penal Code, Article 1404b.

Section 1 of Senate Bill 74 states that one breaking and/or entering with the intent of committing a felony or the crime of theft shall be guilty of a felony and, upon conviction, confined in the penitentiary for not more than three years. Under this amendment one who breaks into a vehicle with the necessary intent is guilty of a felony. Also, one who enters a vehicle with the necessary intent is guilty of a felony. It is therefore apparent that one who enters without breaking is now covered by this amendment, and therefore this bill enlarges the present Article 1404b to that extent.

As to the intent required, whereas the present law requires entry for the purpose of committing a felony or any misdemeanor, Senate Bill 74 requires intent to commit a felony or the crime of theft, thereby limiting its application to instances of intent to commit any felony or misdemeanor theft only.

Section 3 of Article 1404b is made more comprehensive by Senate Bill 74 in that the breaking now includes "any other part of a vehicle", and "latch" is included with locking devices.

Entering a vehicle is now also more comprehensive in that the insertion of hands "or any part of the body" through a vent wing, "door, or other opening of a vehicle shall constitute 'entering a vehicle'" without breaking and without opening a locking device.

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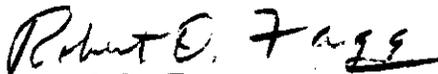
You are therefore advised that Senate Bill 74, as passed by the 54th Legislature, enlarges and restricts the present Article 1404b of the Texas Penal Code, as indicated above.

Very truly yours,

APPROVED:

JOHN BEN SHEPPERD
ATTORNEY GENERAL OF TEXAS

J. Fred Jones
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