



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 9, 2023

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

RE: Texas Legislature Passage of Senate Bill 602

Dear Secretary Mayorkas:

We write to notify you that the 88th Texas Legislature has passed, and Governor Abbott has signed into law Senate Bill 602 expanding the law enforcement authority of federal border patrol agents.¹ Please find a copy of that legislation attached. The law now provides that upon completion of a training conducted by the Texas Department of Public Safety, a Border Patrol Agent of the United States Customs and Border Protection has the powers of arrest and search and seizure as to any felony offenses under Texas law if the arrest, search, or seizure (1) occurs on the premises of a port facility or at a border patrol traffic checkpoint, and (2) is incident to a detention under federal law.²

Additionally, Senate Bill 602 requires the Texas Attorney General to notify the “commanding authority of each United States border patrol sector” in Texas regarding the authority granted to border patrol agents under the Act, and of the circumstances under which it may be exercised. I request that you forward this letter and the enclosed legislation to the respective commanding authorities. In the alternative, please provide a list of those commanding authorities so that our office may provide such notification directly.

Texas has been forced to develop new solutions after the federal government abdicated enforcement and even weaponized immigration law to intensify surges of new arrivals at the border. Senate Bill 602 reflects Texans’ desire for a more robust and effective response to the historic levels of unvetted foreign aliens entering our state. By augmenting the authority of our federal law enforcement partners, we invite your increased assistance in securing the border and defending our citizens. I look forward to your full cooperation in this matter.

Yours in service,

A handwritten signature in cursive script that reads "Ken Paxton".

Ken Paxton
Texas Attorney General

¹ Tex. S.B. 602, 88th Leg., R.S. (2023).

² Tex. Code of Crim. Proc. art. 2.122(c-1).

AN ACT

relating to the law enforcement authority of federal border patrol agents.

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

SECTION 1. Article 2.122, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) In addition to the power granted under Subsection (c), a Border Patrol Agent of the United States Customs and Border Protection who completed the training program described by Section 411.02093, Government Code, has the powers of arrest and search and seizure as to any felony offense under the laws of this state if the arrest, search, or seizure:

(1) occurs on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry or at a border patrol traffic checkpoint; and

(2) is incident to a detainment under federal law.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.02093 to read as follows:

Sec. 411.02093. STATE CRIMINAL LAW TRAINING PROGRAM FOR BORDER PATROL AGENTS. (a) The department shall:

(1) develop a training program for Border Patrol Agents of the United States Customs and Border Protection on the criminal laws of this state, including laws relating to arrest,

1 search, and seizure; and

2 (2) on request, provide the training program developed
3 under Subdivision (1) to a Border Patrol Agent.

4 (b) The department may enter into a written agreement with
5 the United States Customs and Border Protection for purposes of
6 providing the training program developed under this section.

7 SECTION 3. As soon as practicable after the effective date
8 of this Act, the office of the attorney general shall give written
9 notice to the commanding authority of each United States border
10 patrol sector in this state regarding the authority granted to
11 border patrol agents by this Act and the circumstances under which
12 this authority may be exercised.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 602 passed the Senate on April 5, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 602 passed the House on May 10, 2023, by the following vote: Yeas 99, Nays 43, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor