

SUBJECT: Adult penalties for juveniles involved in hit and run accidents

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Goodman, J. Jones, McClendon, McReynolds, Naishtat,
A. Reyna, Smith, Williams

0 nays

1 absent — Staples

SENATE VOTE: On final passage, February 12 — 31-0

WITNESSES: For — Michael Cabral

Against — None

On — Robert Burroughs; Robert Dawson, University of Texas Law School

BACKGROUND : Under the Transportation Code, juveniles aged 14 to under 17 who violate certain traffic laws may be punished by a fine of \$100. These offenses involve vehicle registration, driver's licenses, "rules of the road," financial responsibility, vehicle size and weight, protective headgear while on motorcycles, and privileged parking.

The "rules of the road," in Subchapter C of the Transportation Code, establish requirements for motorists who are involved in accidents resulting in personal injury or damage to vehicles or who strike an unattended vehicle. Failure to stop and render aid to injuries and provide necessary information may be punished by up to five years in jail and a \$5,000 fine. Failure to stop and provide information in accidents involving damage to vehicles is a Class C misdemeanor, with a maximum \$500 fine, if damages are less than \$200, or a Class B misdemeanor, with a maximum penalty of 180 days in jail and a \$2,000 fine, if damages total \$200 or more. Failure to comply with information requirements when striking an unattended vehicle is a Class C misdemeanor if damages are less than \$200 or a Class B misdemeanor if they are \$200 or more.

DIGEST: SB 81 would provide that the \$100 maximum penalty for juveniles involved in certain traffic offenses would not apply to the aid and notice requirements specified in the Transportation Code's "rules of the road."

The bill would add these offenses to Family Code provisions allowing courts to designate juveniles violating specific traffic offenses as having engaged in "delinquent conduct" or in "conduct indicating a need for supervision." It also would amend the Penal Code to add these offenses to a list of exceptions to the general ban on prosecution of persons younger than 15 years of age.

SB 81 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

SUPPORTERS SAY: SB 81 would close a loophole in the law that permits juveniles to be assessed a virtual slap on the wrist for serious criminal violations like hit-and-run accidents involving injury or death. This is no isolated problem; tragedies are occurring all across Texas. Two years ago in Houston, a 12-year-old girl was killed by a 16-year old driver who then fled the scene. Despite a police record that included previous arrests for drug violations, car theft, and evading arrest, the 16-year-old driver was charged with a misdemeanor traffic offense, fined \$100, and released from custody. A similar hit-and-run incident occurred in San Antonio, where another 16-year-old driver killed a toddler and severely injured his father. Other communities have their own tragic stories.

All drivers, regardless of age, have certain responsibilities. This bill would treat juveniles the same as adults if they failed to live up to those responsibilities. Most of the offenses limited to a \$100 fine for juveniles involve paperwork and recordkeeping; serious offenses were not meant to be included in that list. SB 81 would apply the proper penalty to these cases.

The bill would have a deterrent effect on juvenile drivers and encourage them to use caution while driving. It also would reassure the families of hit and run victims that some measure of true justice would be levied on persons who caused such harm to their loved ones, regardless of their age. The courts would retain ultimate discretion on punishment, deciding whether to impose the maximum penalty or to allow for some type of

supervised adjudication. Specific penalties would not be mandatory; the bill would still allow a case-by-case approach.

**OPPONENTS
SAY:**

It is a well established principle of law that juveniles should not be held to the same standards of accountability as adults. Juveniles are not allowed to vote, to drink, or to make major life decisions because of their immaturity, and for the same reason the laws also provide for different levels of punishment for mistakes made by children. Adult criminal law should not be applied to juveniles in hit and run situations. Although the consequences may be tragic, the very nature of a hit and run accident exemplifies the immaturity of the juvenile involved and is not the sort of intentional or violent conduct that justifies an exception.