

SUBJECT: Increased punishment for second offense of burglary of a vehicle

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Vaught, Vo

1 nay — Pierson

2 absent — Hodge, Riddle

WITNESSES: For — Wayne Browning, Fort Worth Police Department, Texas Association of Vehicle Theft Investigators, International Association of Vehicle Theft Investigators; Marc Chavez, Lubbock County District Attorney's Office; Reggie Gray, North Houston Greenspoint Chamber of Commerce, Alliance of North Houston Chambers of Commerce, Federal Bureau of Investigation Citizen's Academy Alumni Association, Greenspoint District; Steve Lyons, Houston Police Department; (*Registered, but did not testify*: Laura Andersen, San Antonio Police Department; Joey Canady, Heart of Texas Auto Theft Task Force, Texas Association of Vehicle Theft Investigators; Katrina Daniels, Bexar County Criminal District Attorney Susan D. Reed; Kevin Petroff, Harris County District Attorney's Office)

Against — (*Registered, but did not testify*: Jessica Cassidy, American Civil Liberties Union of Texas)

BACKGROUND: Under Penal Code, sec. 30.04 burglary of a vehicle is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). If it is shown at trial that the defendant has been previously convicted of burglary of a vehicle, the offense is a class A misdemeanor with a minimum term of confinement of six months. An offense is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if it is shown at trial that the defendant has been previously convicted of burglary of a vehicle two or more times, or the vehicle or part of the vehicle broken into or entered is a rail car.

Under Code of Criminal Procedure, 42.12, the amount of community service a judge orders may not exceed 400 hours for a state jail felony, 600

hours for a burglary of a vehicle offense classified as a class A misdemeanor, or 200 hours for any other class A misdemeanor.

DIGEST:

HB 1396 would provide that burglary of a vehicle was a state jail felony if it was shown at trial that the defendant had been previously convicted of burglary of a vehicle or if the vehicle or part of the vehicle broken into or entered was a rail car. Otherwise, an offense would be a class A misdemeanor.

The amount of community service a judge ordered could not exceed 400 hours for a state jail felony or 200 hours for a class A misdemeanor, unless the offense was burglary of a vehicle. The amount for burglary of a vehicle could not exceed 600 hours.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

By enhancing the penalty for a second offense of burglary of a vehicle, HB 1396 establish a stronger deterrent for those who are repeatedly convicted of this offense. In 1994, the penalty was lowered from a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to a class A misdemeanor. These offenses have increased by 30 percent since then. Increasing the penalty after a second offense, rather than waiting until the third, would be a step toward deterring repeat offenders. First offenses would remain class A misdemeanors.

HB 1396 would apply a more appropriate penalty in consideration of the actual cost of the crime. Stolen documents or credit cards can lead to identity theft, which can have a long-lasting impact on the victim's credit and finances. In addition to the items stolen during the offense, the break-in also causes damage to the vehicle.

**OPPONENTS
SAY:**

Providing a penalty enhancement is generally not an effective deterrent. The cost of incarcerating offenders would be an additional financial burden and would divert resources away from other important efforts that could do more to reduce recidivism or promote prevention.