

**SUBJECT:** Increasing penalties for driving without a license

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 6 ayes — S. Miller, Fletcher, Beck, Driver, Flynn, Pena  
1 nay — Walle  
2 absent — Burnam, Mallory Caraway

**WITNESSES:** For — None  
  
Against — (*Registered, but did not testify:* Rebecca Bernhardt, Texas Criminal Justice Coalition; Frank, Knaack, American Civil Liberties Union of Texas)  
  
On — Rebecca Davio, Texas Department of Public Safety

**BACKGROUND:** Transportation Code, ch. 521, subch. B prohibits a person not expressly exempted from the chapter from operating a motor vehicle on a highway in this state without a driver's license.

**DIGEST:** CSHB 19 would increase an offense for driving without a license, currently a misdemeanor punishable by a fine of \$200, to a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), if the person driving without a license committed another traffic offense that caused property damage, bodily injury, or death.  
  
A person driving without a license who was involved in a motor vehicle accident resulting in bodily injury, death, or property damage to an apparent extent of \$500 would be subject to have their vehicle impounded following the ruling of a magistrate. The law enforcement officer would initially determine if a person did not have a license, and a magistrate would make the final determination.  
  
The bill also would require a person whose vehicle was impounded to submit evidence that the vehicle will be insured or otherwise covered at the time of release.

The bill would take effect September 1, 2011, and would apply to an offense committed on or after its effective date.

**SUPPORTERS  
SAY:**

CSHB 19 would require a peace officer to initiate a process to impound a vehicle that was in operation by a driver without a valid license. There currently is confusion about the legal extent of a peace officer's ability to impound a vehicle for this offense under the law. Some law enforcement agencies have promulgated policies specifically authorizing impoundments, while other agencies have operated under the assumption that it is necessary to make a standard arrest and impound a vehicle accordingly. CSHB 19 would establish in certain terms a peace officer's ability to impound a vehicle for these violations.

The bill would address an ongoing problem that law enforcement agencies have encountered of people, often with criminal reasons causing them to be barred from driving, driving without identification. CSHB 19 would enable law enforcement officers to effectively combat these situations by creating clear statutory authority for them to impound a vehicle. As in current law for having a vehicle not registered in Texas, the bill would only allow a vehicle to be impounded that was involved in an accident causing damage over an estimated \$500.

Peace officers should not have to release an unlicensed driver, who has just committed a traffic violation and upon release would continue to be a hazard and liability for other drivers. Impounding a vehicle in this case would ensure that the person was not a liability to others and also would spare a law enforcement agency from having to arrest a party who committed a minor offense. Requiring proof of insurance upon the release of an impounded vehicle would prevent a driver from getting immediately back into their vehicle uninsured and would create a strong incentive for that person to purchase a qualified insurance policy.

CSHB 19 also would increase penalties for a person who was driving without a license while committing another traffic offense causing property damage, injury, or property damage. Many people who drive without a license have criminal records that prevent them from driving. This enhanced penalty would create an appropriate penalty for a person who caused an accident while driving without a license. Enhancing this penalty would create a stronger incentive for unlicensed drivers to restore their rights to drive or find alternative means of transportation.

OPPONENTS  
SAY:

Impounding vehicles for lack of a valid driver's license would place a significant burden on the person whose car was impounded since the person then would be liable for a variety of fees and would have to make arrangements to retrieve the vehicle from a storage facility, in addition to facing the standard punishments provided in law.

Impounding vehicles would not increase the number of people who were driving legally. On the contrary, impounding a vehicle contributes to a "debtor's prison" by imposing exorbitant fees that increase by day on those least able to afford the payments. An unlicensed driver is less likely to be able to afford insurance or resolve any outstanding fees that led to the canceled license if he or she has to pay hundreds of dollars in impound fees to retrieve a vehicle.

Many Texans have been caught in a vicious cycle by the Drivers' Responsibility Program, which imposes a surcharge to be paid every year for three years. Many are not aware of the annual charges or incapable of paying them and, as a result, have their driver's license cancelled. CSHB 19 could exacerbate this cycle by enhancing penalties and fines for Texans that are incapable of paying their existing outstanding debts.

OTHER  
OPPONENTS  
SAY:

CSHB 19 would create a stronger class B misdemeanor for causing "property damage" while driving without a license, yet it would specify no minimum estimated damages associated with this provision. Property damage could be a minor fender-bender from which no substantial claim would arise. At a minimum, this enhanced penalty should be subject to a minimum estimated damage provision.