

SUBJECT: Enhanced penalties for tampering with vehicle and firearm I.D. numbers

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Dunnam, Galloway, Hinojosa, Nixon
0 nays
3 absent — Farrar, Keel, A. Reyna

WITNESSES: For — Ken Yarborough, Texas Police Chiefs Association and Texas Police Association; Troy McClain, Dallas Police Department
Against — None
On — David M. Griffith

BACKGROUND : Under sec. 31.11 of the Penal Code, tampering with identification numbers is a Class A misdemeanor, punishable by a maximum of one year in jail and a \$4,000 fine. The offense includes knowingly or intentionally removing, altering or obliterating the serial number or other permanent identification marking on tangible personal property, or possessing, selling or offering for sale personal property from which the serial number or other permanent identification marking has been removed, altered or obliterated.

It is an affirmative defense to prosecution that the person was the owner or acting with the effective consent of the owner of the property involved.

DIGEST: HB 2442 would amend the offense of tampering with identification numbers, creating a state jail felony, punishable by six months to two years in state jail and an optional fine of up to \$10,000, for tampering with identification numbers on a vehicle, including a tractor, farm implement, special mobile equipment, or off-road construction equipment; aircraft; boat; or firearm or parts of these items.

This offense would not carry the affirmative defense to prosecution that the person was the owner or acting with the effective consent of the owner of the property involved.

HB 2442 would take effect September 1, 1997, and would apply only to an offense committed on or after the effective date.

**SUPPORTERS
SAY:**

HB 2442 would help police deal with the growing number of serious property crimes where identification numbers have been altered or defaced. It is necessary to raise the penalty to an appropriate level reflecting the seriousness of those crimes in order to deter these crimes. Before the Penal Code was revised in 1993, tampering with property identification numbers was a third-degree felony. The revisions went too far by making all offenses Class A misdemeanors that carry only jail time and fines. Since the lower penalty was adopted, violations of this law have increased substantially. It is appropriate to focus increased penalties on tampering with the identification numbers of vehicles, boats, aircraft and guns because these are the major types of property involved in these crimes.

The bill would increase the punishment for and deter the commission of several common crimes involving tampering with identification numbers, including "salvage switches" and operation of "chop shops." A salvage switch occurs when the visible identification number and license plates of a junk car are switched onto a stolen car. Since the offender has clear legal title to the salvage car, the transfer makes it appear that the person has legal title to the stolen car unless a thorough investigation of the car's identification numbers is made. Changing the license plates and the vehicle identification number plate on the car's dashboard are usually enough to hide a stolen car from police on a routine traffic stop.

"Chop shops" disassemble stolen cars and then sell off their component parts. Commonly, identification numbers are removed from engine parts before they are sold. It is usually much more profitable to sell parts of a stolen car than to sell the stolen car itself. These are serious crimes that victimize not only the person whose vehicle is stolen but also everyone else in the community because of the resulting increases in car insurance rates and anxiety residents feel when they park their cars on the street or even on their home driveways. In addition, stolen cars with altered identification numbers are sometimes sold to unsuspecting used car buyers, who then lose their money when they have to turn the car over to the police.

HB 2442 would also address the problem of disproportionate punishments for people who hire others to steal vehicles versus those who actually steal the vehicles. The bill would raise the penalty to an appropriate level for people who contract out for stolen vehicles and then perform a salvage switch or chop up the car for parts themselves.

The bill would appropriately cover aircraft, boats, guns and their parts in addition to vehicles. Although vehicles are more commonly associated with theft and I.D. tampering, these other property items are also subject to a great deal of theft and fraud. It is particularly important to deter tampering with gun serial numbers because police use those numbers to trace weapons used in violent crimes.

There is no legitimate reason to tamper with property identification markings, so the bill's provisions would not be misapplied to innocent people. In addition, in those rare cases where a person, such as a mechanic performing legitimate repair work, removed an identification marking, prosecution would be extremely unlikely because the legitimacy of the work could be proven. Furthermore, the risk of this unlikely scenario would be far outweighed by the benefits the bill would produce by deterring serious property crimes. In addition, it would be an unreasonable burden on police and prosecutors to require proof that a person intended to defraud or deceive by tampering with the identification marking. The requirement in the current statute that a person knowingly or intentionally tampered with an identification marking provides adequate protection.

**OPPONENTS
SAY:**

A state jail felony is a serious offense incurring significant punishment. Such punishment should not be imposed unless it could be proven that that a person intentionally or knowingly removed an identification marking with the intent to defraud or deceive. As HB 2442 is written, people acting without criminal intent, such as body shop workers or mechanics, may suffer severe consequences for removing or obliterating an identification number during legitimate repair work.

OTHER
OPPONENTS
SAY:

The 1993 revisions to the Penal Code were carefully crafted to encompass broad categories and eliminate special provisions. This bill would thwart the legislative intent behind Penal Code reform by carving out special circumstances and applying stronger penalties than indicated for other similar offenses.