

SUBJECT: Impounding motor vehicles after repeat driver's license suspensions

COMMITTEE: Criminal Jurisprudence — favorable, with amendment

VOTE: 8 ayes — Place, Talton, Dunnam, Farrar, Hinojosa, Keel, Nixon, A. Reyna
0 nays
1 absent— Galloway

WITNESSES: For — James F. Mitchell, USA Training Co. Inc.; Carlos E. Reyna, Driving School Association of Texas Inc.
Against — None
On — Robert Burroughs, Texas Department of Public Safety

DIGEST: HB 43, as amended, would mandate that a vehicle driven by a person convicted twice previously within the last 10 years of driving with a suspended or revoked license be impounded for 30 days. Impoundment could occur if, at the time of the offense, the defendant was the owner of the vehicle or the spouse, child or parent of the owner.

The defendant could recover the vehicle after 30 days by paying an impoundment cost of \$15 for each day of impoundment. The vehicle could be released prior to the expiration of the 30 days if the title was transferred by a foreclosure, a sale on execution, a cancellation of a conditional sales contract, or due to a judicial order, or if a secured creditor presented a certificate of title and an affidavit that the loan secured by the motor vehicle was in default or matured. A court also could allow the owner of the vehicle to transfer title if it determined that the transfer would be in good faith and not to circumvent the impounding requirement

The bill would take effect September 1, 1997, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 43 would help Texas police officers combat the growing problem of motorists who continue to drive illegally without a license or with a suspended or revoked license. At any given time, about 394,000 driver's licenses in Texas are suspended or revoked. In 1995 alone, 143 drivers with a suspended or revoked license were involved in fatal accidents. Currently, the only penalty for unlicensed drivers is a maximum fine of \$500 and confinement in jail from 72 hours up to six months. This is not a sufficient deterrent to this widespread problem.

This bill would give courts and peace officers an additional tool to help them better enforce traffic safety laws. This bill should not present any enforcement problems because sheriff's offices generally already have contracts with wrecker and storage companies to impound cars of people arrested and taken to jail.

The only way to keep repeat offenders from operating a motor vehicle is to take away the vehicle that contributes to their delinquency. These offenders had their licenses revoked for a reason and should be kept off the roads.

This bill would also encourage the entire family to prevent an unlicensed driver from getting behind the wheel of the car. However, it would not unjustly penalize family members who needed the car and could ensure that the offending driver would not use it. HB 43 also would specifically allow for transferring title where good faith could be shown.

**OPPONENTS
SAY:**

HB 43 would penalize the entire family in situations where the family car is impounded because of an offense committed by just one family member. This would be unfair to the innocent members of the family who had no control over the situation but who depended on the family vehicle to get to work or school. A fine of \$500 and punishment in jail for six months is sufficiently punitive to be an effective deterrent.

**OTHER
OPPONENTS
SAY:**

The actual impoundment costs may be well over what HB 43 anticipates. The \$15 per diem charge may not cover expenses for towing.

NOTES: The committee amendment would delete references to driving without a license as a cause for impoundment.

Rep. McCall plans to offer a floor amendment giving courts discretion to determine reasonable fees to cover the total costs of impoundment of the vehicle.

A related bill, HB 170 by Driver, which would mandate 30-day impoundments for driving with revoked or suspended licenses and for DWI offenses, has been reported favorably from the House Criminal Jurisprudence Committee.