

SUBJECT: Making repeat burglary of a vehicle offenses a state jail felony

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Talton, Dunnam, Farrar, Galloway, Hinojosa, Keel, Nixon, A. Reyna

0 nays

1 absent — Place

WITNESSES: For — Ken Yarbrough, Texas Police Chiefs Association; Troy McClain, Dallas Police Department; Sherri Wallace, Dallas County Criminal District Attorneys Office; S.C. Van Vlech

Against — None

BACKGROUND : It is a Class A misdemeanor (maximum penalty of one year in jail and a \$4,000 fine) to burglarize a vehicle.

DIGEST: CSHB 521 would change the penalty for second and subsequent offenses of burglary of a vehicle from a Class A misdemeanor to a state jail felony (six months to two years in a state jail and an optional fine of up to \$10,000).

CSHB 521 would take effect September 1, 1997.

SUPPORTERS SAY: CSHB 521 is necessary to adequately punish persons who repeatedly burglarize vehicles and to deter others from committing the crime. Burglarizing a car is an intrusive violation of a person's private property that usually includes damage to the car as well as theft and is sometimes considered a “threshold” crime that leads to more serious criminal activity. Repeat offenses should carry penalties more harsh than those allowed for a misdemeanor.

Before the Penal Code was revised in 1993, first and subsequent offenses of burglarizing a vehicle were all third-degree felonies. The 1993 revisions went too far by making all offenses Class A misdemeanors, which carry only jail time and fines, and not allowing any way to enhance the penalty for

repeat offenders. A state jail felony is the appropriate punishment for repeat offenses because the state jail system was designed to deal with nonviolent property offenders like car burglars. The state has ample room in the state jail system to handle persons convicted under CSHB 521. Making repeat offenses of burglary of a vehicle a state jail offense would appropriately put the penalty on par with the penalty for burglary of a building.

OPPONENTS
SAY:

When the Penal Code was revised in 1993 offenses and punishments were carefully ranked according to severity. Burglary of a vehicle was made a Class A misdemeanor, burglary of a building a state jail felony and burglary of a habitation a second-degree felony unless committed while in conjunction with a felony other than theft, in which case it is a first-degree felony. CSHB 521 would unwisely upset this ranking of offenses by making some offenses of burglary of a vehicle a state jail felony. Burglary of a vehicle should not be ranked the same as the more serious offense of burglary of a habitation.

NOTES:

The original version of the bill would have made all burglary of a vehicle offenses third-degree felonies.