

- SUBJECT:** Criminal and civil penalties for street racing
- COMMITTEE:** Law Enforcement — favorable, without amendment
- VOTE:** 7 ayes — Driver, Garza, Hupp, Burnam, Y. Davis, Hegar, Keel
0 nays
- WITNESSES:** For — Michael Bernard, Bexar County District Attorney’s Office; Ron Brandin, San Antonio Police Department; Lt. John Denholm, Harris County Sheriff’s Office; Juan J. Gonzalez, Austin Police Department; Karen Guimbellot; Joan Hoffner; Lt. Steve Lyons, Houston Police Department; Ruth Meaux; Christopher Rivera, Dallas Police Department

Against — None
- BACKGROUND:** Transportation Code, sec. 545.420(a) prohibits racing on a highway, including a vehicle speed competition or contest, drag race, test of physical endurance of the vehicle’s operator, or attempt to set a vehicle speed record. A drag race is defined as two or more vehicles accelerating side-by-side in a competitive manner to outdistance each other or accelerating along a common selected course to compare relative speed or power of acceleration over the same distance.

Chapter 521 governs procedures for issuing and suspending driver’s licenses. Sec. 521.457(a) provides additional penalties for driving with an invalid or suspended license.

Penal Code, ch. 49 prohibits operating a motor vehicle while intoxicated or having an open container of an alcoholic beverage in the passenger compartment of a motor vehicle.
- DIGEST:** HB 1326 would provide a range of penalties for spectators and participants in a street race and would require automatic suspension of the driver’s license of anyone convicted of a street racing offense.

Criminal penalties. The bill would make spectators who knowingly attended a street race, competition, contest, test, or exhibition subject to prosecution for a Class C misdemeanor (punishable by a maximum fine of \$500).

Street racers would be subject to the following penalties:

- Class B misdemeanor (punishable by up to 180 days in jail and/or a maximum fine of \$2,000) for violating sec. 545.420(a);
- Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the person previously had been convicted of a street racing offense or, at the time of the street racing offense, was driving while intoxicated or possessed an open container of alcohol in the vehicle;
- state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the person previously had been convicted twice for street racing;
- third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the street racer caused bodily injury to a person; and
- second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the racer caused serious bodily injury or death.

License suspension. HB 1326 would provide for an automatic one-year suspension of the driver's license of a person convicted of street racing. An offender older than 18 would remain eligible for an occupational license, but an occupational license for a person younger than 18 could allow the person only to drive to and from school and home.

A person whose license was suspended for street racing would have to complete successfully a course approved by the Texas Education Agency on the dangers of street racing within one year of the license suspension. If the person was a Texas resident without a driver's license, the court would have to prohibit the Department of Public Safety (DPS) from issuing the person a driver's license before he or she completed the driving safety course. The safety course would have to include a minimum of 100 hours of classroom instruction in the dangers of speeding and aggressive driving. A person who completed the safety course before the end of the license suspension could petition for reinstatement of the driver's license.

If a person whose license was revoked for street racing later was convicted of driving with an invalid or suspended license during the period of suspension, DPS would have to revoke the license for one year after the conviction.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1326 would give law enforcement agencies and prosecutors a law with “teeth” to help them crack down on a growing menace on Texas streets and highways. Since January 2002, illegal street racing has contributed to six deaths and three serious injuries in San Antonio. Street racers routinely block off and race along the U.S. 183 flyover, Congress Avenue, and Loop 1 in Austin, where racing caused three fatalities in 2002. Up to 1,500 spectators on weekend nights attend impromptu illegal racing events on Goodnight Trail near Rankin Road in Harris County. Two Houston teenagers were killed in late April during a street racing event. Street racers turn Northwest Highway between Dallas and Irving into a private course and endanger other motorists. Street racers compete in a similar fashion along Valley Mills in Waco.

Street racers comprise a well organized, semicriminal enterprise that should not be mistaken for the “rebels” featured in nostalgic movies. Promoters use sophisticated technology to organize these events. Racers and spectators are alerted about future events on websites that are programmed to block out searches by law enforcement agency computers. Impromptu race courses are laid out using Global Positioning System technology. Racers and their fans boast about their exploits in Internet chat rooms. These people should not be allowed to play their risky games on public streets and highways.

Current penalties obviously do not deter street racing. HB 1326 would create a progression of punishments to target offenses of increasing severity. Loss of driving privileges would be an additional and appropriate remedy. Street racers have a large financial and emotional investment in their vehicles, and they should not be able to drive them until they have learned about the dangers of racing on highways and streets.

Spectators also should face criminal penalties if they knowingly participate in illegal street races. Typically, large cash bets are made on the results of the races, and participants often rely on the proceeds to purchase and maintain their vehicles. State law already punishes spectators who attend cockfights

and dogfights and wager on the outcomes. Without an audience and ready source of cash, street racers would have less of an incentive to perform.

Law enforcement officers and prosecutors can be relied on to use discretion wisely in deciding whether to arrest or prosecute street racing spectators or participants. Seeking the maximum penalties, especially in cases involving serious bodily injury or death, would help bring closure to victims and their families and would deter others from repeating the offense.

Law enforcement agencies also learn from their mistakes, such as with the August 2002 raid on at a Houston Kmart store where 278 people at a street racing event were arrested for curfew and trespassing violations. Thirty-one officers have been disciplined, and the supervisor ordering the action was dismissed from the police department.

Requiring at least 100 hours of classroom instruction on the dangers of speeding and aggressive driving would help change attitudes about risky behavior while operating a motor vehicle.

**OPPONENTS
SAY:**

HB 1326 represents a case of overkill with unnecessarily punitive sanctions. Drag racing is already illegal and carries sufficient penalties. Those who kill or injure others can be prosecuted for assault or manslaughter. The harsher range of penalties proposed by the bill only would lead to grandstanding by district attorneys. Penalizing spectators infringe further on civil liberties and could violate constitutional protections for peaceful assemblies.

Stricter enforcement called for in the bill would increase potential conflicts between law enforcement and young people, particularly those belonging to minority groups. The wrongful arrest of young people at a Houston Kmart store last August shows how law enforcement officers can abuse the current law. Increasing the penalties for those alleged to be at an illegal street race could compound such injustices.

The 100-hour requirement for the traffic safety course would be too punitive and could prove as ineffectual as gory films in driver education classes or “comedy” defensive driving courses.