

- SUBJECT:** Higher maximum fine for repeat class C criminal mischief
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Keel, Riddle, Denny, Escobar, Hodge, Raymond, Reyna
0 nays
2 absent — P. Moreno, Pena,
- WITNESSES:** For — Ann Del Llano, ACLU of Texas.
Against — None
- BACKGROUND:** Under Penal Code, sec. 28.03, a person commits criminal mischief if, without effective consent of the owner, the person intentionally or knowingly:
- damages or destroys tangible property of the owner;
 - tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or another person; or
 - makes markings, inscriptions, slogans, drawings, or paintings on the tangible property of the owner.
- Criminal mischief is a class C misdemeanor (maximum fine of \$500) if the amount of loss is less than \$50 or if it causes substantial inconvenience to others. The penalties for criminal mischief increase depending on the amount of loss or particular circumstances to as high as a first degree felony.
- DIGEST:** CSHB 197 would enhance the penalty for a violation of sec. 28.03 to a maximum fine of \$1,000 if the amount of pecuniary loss due to the criminal mischief was less than \$50 and the offender had been convicted of this same offense three or more times.
- The bill would take effect September 1, 2005, and would apply to an offense committed on or after the effective date.

**SUPPORTERS
SAY:**

By enhancing the penalty for repeat class C criminal mischief to a \$1,000 fine, CSHB 197 would help discourage those who have shown a pattern of committing minor criminal mischief crimes from committing further such offenses. Under current law, repeat offenders are not more severely punished for ongoing violations of an offense. In addition to discouraging future mischief, the increased fine also could deter those who might be tempted to commit more serious crimes.

The bill would not be a dramatic departure from the structure of the Penal Code. The Code currently enhances penalties for three or more convictions of class C disorderly conduct and/or public intoxication committed within a certain time frame. In this case, by doubling the maximum fine rather than imposing possible jail time, the bill would punish repeat offenders more harshly while remaining sensitive to the growing problem of jail and prison overcrowding.

**OPPONENTS
SAY:**

This bill would deviate from the standard structure of the Penal Code, which is not set up to allow different punishments for the same class of offense. There is a standard punishment throughout the code for each degree of an offense, which in the case of a class C misdemeanor is a \$500 fine. Room for discretion already is built into the code through ranges of punishment. It is necessary to adhere to this structure to maintain clarity and consistency in the Penal Code.

NOTES:

The committee substitute differs from the original in that it would increase the maximum fine for three or more convictions of a class C criminal mischief violation rather than enhancing the crime to a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).