

- SUBJECT:** Enhancing the penalty for failing to stop after a motor vehicle accident
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 6 ayes — Krusee, Phillips, Harper-Brown, Deshotel, Macias, Murphy
0 nays
3 absent — Haggerty, Harless, Hill
- WITNESSES:** For — (*Registered, but did not testify:* Cris Andersen, San Antonio Police Officers' Association; Laura Andersen, San Antonio Police Department)
Against — None
- BACKGROUND:** Transportation Code, sec. 550.021 directs drivers involved in an accident resulting in injury or death to immediately stop or return to the scene of the accident and remain at the scene until they have discharged their duties to:
- provide identifying and insurer information to the other parties in the accident; and
 - provide reasonable assistance, including arranging for transportation to medical treatment if necessary or upon request.
- Failure to remain at the scene, provide information, or render aid is punishable by:
- a prison term of five years or less or a county jail term of one year or less;
 - a fine not to exceed \$5,000; or
 - both imprisonment and a fine.
- Under Penal Code, sec. 49.07, a person commits the offense of intoxication assault if that person, as a result of intoxication, causes serious bodily injury to someone by accident or mistake while:

- operating a motor vehicle in a public place;
- operating an aircraft or watercraft; or
- operating or assembling an amusement ride.

Under Penal Code, sec. 49.08, a person commits the offense of intoxication manslaughter if that person, as a result of intoxication, kills someone by accident or mistake while:

- operating a motor vehicle in a public place;
- operating an aircraft or watercraft; or
- operating or assembling an amusement ride.

Intoxication assault is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000), and intoxication manslaughter is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000).

DIGEST:

HB 1840 would amend Transportation Code, sec. 550.021(c) to change the penalty for failing to stop at an accident that results in death or serious bodily injury or failing to give information and render aid under those circumstances. The penalty for such an offense would be a third-degree felony.

The bill would take effect September 1, 2007, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 1840 would reduce the incentive for drunk drivers to flee the scene of an accident. Currently, drunk driving offenses involving serious injury or death carry heavier penalties than the law against fleeing the scene of an accident. Making the punishment for failing to stop and render aid in the event of serious injury or death equivalent to the penalty for intoxication assault would remove that incentive. This bill would encourage people to do the right thing by complying with the law and potentially save lives by rendering aid.

By changing the penalty to a third-degree felony with a penalty set by the Penal Code, HB 1840 would improve the law requiring drivers in an accident to stop and render aid. Standardizing archaic penalty ranges such as the one that currently exists for failure to stop and render aid contributes to certainty in the law and ease of use. All the Penal Code punishment

ranges were standardized when the code was rewritten in 1993, but crimes referenced in other codes were not systematically changed.

Concerns that HB 1840 would increase the burden on Texas' criminal justice system are unfounded. According to the Legislative Budget Board, HB 1840 would have no significant fiscal implication to the Texas Department of Criminal Justice or any aspect of the state budget.

OPPONENTS
SAY:

Penalty enhancement would not deter a person from fleeing an accident scene, particularly someone whose judgment was clouded by alcohol. The choice to flee an accident is usually spurred by panic rather than a cost-benefit analysis of the different penalties that might result. People typically flee accident scenes because they do not have insurance, are worried about other legal entanglements, or because they are intoxicated and fear prosecution as a drunk driver. Further, even offenders who are capable of weighing the consequences, still might flee in hopes of avoiding detection and thus avoiding costly insurance payouts and potential civil liability.

Texas cannot afford to enhance the penalty for a crime that already is severely punished. HB 1840 would burden the criminal justice system by sending more people who flee accident scenes to prison.