

- SUBJECT:** Requiring passengers to stop and render aid in vehicle accidents
- COMMITTEE:** Law Enforcement — committee substitute recommended
- VOTE:** 6 ayes — Driver, Allen, Frost, Ortiz, Vo, West  
0 nays  
1 absent — Latham
- WITNESSES:** For — Dillion Matt Bingham, Smith County Criminal District Attorney's Office; (*Registered, but did not testify:* Chris Johnson; Chris W. Jones, Combined Law Enforcement Associations of Texas (CLEAT); Anette Soto, Mothers Against Drunk Driving (MADD))  
  
Against — Kristin Etter, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify:* Benny Hernandez, American Civil Liberties Union of Texas)  
  
On — (*Registered, but did not testify:* Luis Gonzalez, Texas Department of Public Safety; Chad Skidmore, Department of Public Safety)
- BACKGROUND:** Transportation Code, sec. 550.021 requires a driver of a vehicle involved in an accident involving injury or death immediately to:
- stop the vehicle at the accident scene as close as possible;
  - return to the scene of the accident if the vehicle is not stopped at the accident scene; and
  - remain at the scene until the driver complies with the requirements of Transportation Code, sec. 550.023 to give information and render aid.
- Failure to comply with these requirements can result in being sentenced up to five years in state prison or up to one year in a county jail, a fine of up to \$1,500, or both fine and imprisonment.
- Transportation Code, sec. 550.022 requires drivers involved in accidents involving only property damage to stop at or near the accident scene and remain at the scene to provide information, except if the accident occurs

on a metropolitan freeway and the vehicles can be safely moved to a designated accident investigation site. Failure to comply with this section is a class C misdemeanor (maximum fine of \$500) if the damage to all vehicles is less than \$200 and a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the damage to all vehicles is more than \$200.

Transportation Code, sec. 550.023 requires that the driver of a vehicle involved in an accident resulting in death or injury or resulting in damage to a vehicle to provide name, address, registration number of vehicle, and liability insurance information as well as show a drivers license if asked by the drivers or passengers of the other vehicles. The driver also is responsible for providing reasonable assistance to any injured person, including transporting or making arrangements for transporting an injured person to a physician or hospital for medical treatment.

DIGEST:

CSHB 489 would amend Transportation Code, secs. 550.021, 550.022, and 550.023 to require passengers to remain at the scene and to provide information and render aid. The changes would not apply to any passenger who was younger than 17 years of age.

The bill would amend Transportation Code, sec. 550.021 to require that the passenger remain at the scene of an accident resulting in death or injury until the passenger complied with requirements of Transportation Code, sec. 550.023 to give information and render aid. The bill also would require a passenger who was unable to remain at the scene of the accident because of the actions of the driver to report the accident to emergency medical personnel or a law enforcement agency as soon as the passenger could make the report without becoming at risk for suffering serious bodily damage or death.

The passenger would be required to provide medical services or law enforcement personnel with:

- the passenger's name, address, phone number, driver's license, or personal identification certificate number;
- the name, address, and phone number of the driver, if known;
- location of the accident;
- location of the passenger; and
- location of the operator, if known.

CSHB 489 also would amend Transportation Code, sec. 550.022 and would make similar requirements for a passenger to remain on the scene of an accident involving only property damage or to make reports later if the passenger was unable to remain because of the actions of the driver. Failure to comply these provisions would be a class C misdemeanor (maximum fine of \$500) if the damage to all vehicles was less than \$200 or a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the damage is more than \$200.

CSHB 489 would amend Transportation Code, sec. 550.023 to require a passenger to give private information about both the driver and the passenger. It also would require a passenger to provide a person injured in the accident reasonable assistance, including transporting or making arrangements for transporting the person to a physician or hospital for medical treatment.

The bill would take effect on September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 489 would make a reasonable change to encourage passengers to do their basic ethical duty to help others injured or killed in vehicle accidents, even if drivers do not. The bill closes a loophole in current laws which impose the legal duty on drivers but does not extend that requirement to others who are in a position to render aid to those injured or killed in a vehicle accident.

The need for such change was illustrated by a December 2006 accident when a Smith County high school student was severely injured and remained in a coma for more than a month after her vehicle was struck by another vehicle driven by a driver who was later arrested and charged with felony intoxication assault. Police reports indicate that the driver failed to check on the condition of the injured young woman and was found smoking a cigarette on the side of the road when police arrived. The man's passenger, a bank vice president, fled the scene and hid in the woods for more than two hours. The passenger was arrested and booked into the jail, but prosecutors found that state law does not provide that passengers have the same duty to remain at the scene or render aid, requiring the man to be released.

Prosecutors would be able to exercise discretion on whether to file criminal cases, but they still need the authority to seek the same kind of penalties for both drivers and passengers who fail to give information or

render aid after an accident. Such decisions still would be made on a case-by-case basis, and prosecutors would take into account whether a passenger was disoriented or unable to render assistance or needed to help a family member. The final disposition of these cases, as with any other judicial proceedings, would be up to a judge or a jury.

CSHB 489 would provide a passenger the way to meet their ethical duties should the driver flee the scene. It also would provide an exception for those under 17 years of age. The requirement for transporting or making arrangements for transportation for an injured person already exists in current statute.

OPPONENTS  
SAY:

CSHB 489 would criminalize the actions of passengers who have done nothing to cause injury or death to another in a vehicle accident. It also would make them legally liable when they have done nothing wrong. Accident scenes are particularly chaotic places, especially those involving serious injury and death. The bill would seem to require that a passenger give a higher priority to attending to injured persons in other vehicles, most likely strangers, compared with helping one's spouse or children.

What happened in Smith County where the passenger fled the scene where the high school senior was injured is indeed tragic. However, the Legislature should not base state policy on isolated events and anecdotal evidence. Making something a criminal offense does not ensure that people will make proper and ethical decisions. The Smith County bank vice president did a despicable and cowardly thing by hiding in the woods, but the shame and loss of reputation, in all likelihood, would be more of a punishment than a fine or jail .

The bill does not provide clear standards about whether a passenger still would be liable even if the driver complied with the requirement to stop and render aid. There remains the possibility that a passenger could receive more severe penalties than did the driver for the same incident.