

SUBJECT: Penalty for obtaining, lending, possessing, or using a license or ID illegally

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 6 ayes — Merritt, Frost, Driver, P. King, Lewis, Vo

1 nay — Rodriguez

2 present not voting — Burnam, Mallory Caraway

WITNESSES: For — John Brewer, Harris County District Attorney's Office;
(*Registered, but did not testify*: Katrina Daniels, Bexar County District
Attorney's Office; Bill Elkin, Houston Police Retired Officers
Association; James Jones, Houston Police Department; Randal
Kuykendall, Texas Municipal Police Association)

Against — None

On — (*Registered, but did not testify*: Rhonda Fleming, Department of
Public Safety)

BACKGROUND: Under Transportation Code, sec. 521.451 a person may not:

- possess, display, or permit to be displayed a driver's license or personal identification certificate that the person knows is fictitious or has been altered;
- lend a license or ID to another or knowingly permit another to use a license or ID;
- display or represent as the person's own a license or ID not issued to the person;
- possess more than one currently valid license or ID; or
- provide a false name, address, or counterfeit document, or knowingly make a false statement, conceal a material fact, or otherwise commit fraud in an application for an original, renewal, or duplicated license or ID.

Under Transportation Code, sec. 521.454 a person commits an offense if the person knowingly swears to or affirms falsely any information required by the Department of Public Safety in an application for an

original, renewal, or duplicate driver's license or ID. An offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Under Code of Criminal Procedure, sec. 521.455 a person commits an offense if the person intentionally or knowingly uses a license or ID obtained in violation of sec. 521.451 or sec. 521.454.

DIGEST:

HB 2411 would amend Code of Criminal Procedure, ch. 521 to eliminate the following acts as violations of sec. 521.452:

- possessing, displaying, or permitting to be displayed a driver's license or personal identification certificate that the person knew was fictitious or had been altered;
- providing a false name, address, or counterfeit document, or knowingly making a false statement, concealing a material fact, or otherwise committing fraud in an application for an original, renewal, or duplicated license or ID.

Knowingly swearing to or affirming falsely any information required by the Department of Public Safety in an application for an original, renewal, or duplicate driver's license or ID would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

The bill would repeal Code of Criminal Procedure, sec. 521.455.

HB 2411 would take effect September 1, 2009, and would apply only to offense committed on or after this date.

**SUPPORTERS
SAY:**

By increasing the penalty for individuals who falsify information on a driver's license or ID application, HB 2411 would recognize the seriousness of this crime and punish it accordingly. When an offender illegally obtains a license or ID in this way, it can be used to commit identity theft. This problem is prevalent throughout the state, is difficult to investigate and prosecute, and can have serious financial consequences for victims. HB 2411 would deter offenders from obtaining a license or ID under false pretenses, thereby deterring identity theft.

HB 2411 also would resolve a conflict that currently exists between similar provisions in the Transportation and Penal Codes. Currently, some offenses could be prosecuted under Transportation Code, sec. 521.451 or under Penal Code, sec. 32.51, tampering with a government record.

OPPONENTS
SAY:

The current punishment scheme for false IDs is sufficient. Increasing an offense from a misdemeanor to a felony would be an excessive penalty enhancement.

Generally, penalty enhancements are not effective deterrents. The cost of incarcerating offenders would be an additional financial burden, and would divert resources away from other important efforts, such as the probation system, that could do more to reduce recidivism.