

SUBJECT: Requiring impound of certain vehicles for highway racing

COMMITTEE: Transportation — favorable, with amendment

VOTE: 9 ayes — Pickett, Phillips, Callegari, Y. Davis, Harper-Brown, McClendon, Merritt, T. Smith, W. Smith

0 nays

2 absent — Dunnam, Guillen

WITNESSES: For — (*Registered, but did not testify:* Jess Horton, Southwest Tow Operators; James McLaughlin, Texas Police Chiefs Association; Anne O' Ryan, AAA Texas)

Against — None

BACKGROUND: Transportation Code, sec. 545.420 prohibits racing, drag racing, or any vehicle speed competition or contest involving a vehicle. Punishments for this offense range from a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), depending on the circumstances surrounding the violation and what consequences resulted from the infraction.

DIGEST: HB 548 would require a peace officer to remove to a licensed vehicle storage facility a vehicle involved in a racing incident that resulted in an accident with property damage or personal injury. The owner of a removed and stored vehicle would be liable to pay all fees necessary to reclaim possession of the vehicle.

The bill would take effect September 1, 2009, and would apply to an offense committed on or after that date.

SUPPORTERS SAY: HB 548 would help deter racing and drag racing, which are characterized by excessive speeds and dangerous driving behavior that pose a grave threat to the operator of the vehicle and other drivers and pedestrians. Requiring a peace officer to impound the vehicle of a person who causes

property damage or personal injury while engaged in racing would be a matter of fairness and safety — fairness in that it would institute a reasonable punishment by temporarily removing property that was used with reckless disregard in a crime, and safety in that a person who demonstrates such dangerous driving behavior should not be allowed to drive home from an accident that resulted from their reckless abandon.

While impounding a vehicle may have incidental effects on others not directly implicated in a crime, this could be extended to any number of crimes for which the state has penalties. Placing a person in jail, for instance, has a much more significant impact on that person's family than temporarily impounding their vehicle. Imposing a temporary inconvenience by impounding a vehicle used in a racing offense would give an offender time to rethink their actions before reassuming control of a vehicle.

OPPONENTS
SAY:

HB 548 would continue an unfair policy of taking away automobiles used in the commission of crimes. The family of someone whose car was impounded, even temporarily, could have difficulty getting to work, taking children to school, or buying family necessities. This would be unfair to innocent members of the family who had no control over the situation but who depend on the family vehicle to get to work or school. The bill could enhance fines contained in current law or impose other penalties as an effective deterrent to racing.