

- SUBJECT:** Punishing burglary of vehicle based on cost damage plus items stolen
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Herrero, Carter, Hughes, Leach, Moody
4 nays — Burnam, Canales, Schaefer, Toth
- WITNESSES:** For — (*Registered, but did not testify:* Brent Connett, Texas Conservative Coalition; John Dahill, Texas Conference of Urban Counties; Mark Mendez, Tarrant County Commissioners Court; Steven Tays, Bexar County Criminal District Attorney's Office)

Against — (*Registered, but did not testify:* Yannis Banks, Texas NAACP; Kristin Etter, Texas Criminal Defense Lawyers Association; Travis Leete, The Texas Criminal Justice Coalition; Matt Simpson, ACLU of Texas)
- BACKGROUND:** Penal Code, sec. 30.04 makes burglary of a vehicle a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Second offenses are class A misdemeanors with minimum terms of six months in jail. Third and subsequent offenses are state-jail felonies (180 days to two years in a state jail and an optional fine of up to \$10,000).
- DIGEST:** HB 2827 would make punishments for burglary of a vehicle tied to the value of the property damaged or taken in the burglary. The offenses would be:
- class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the value was less than \$500;
 - class A misdemeanor if the value was \$500 but less than \$1,500;
 - state-jail felony if the value was \$1,500 but less than \$20,000;
 - state-jail felony for third or subsequent offenses with a value was less than \$1,500;
 - state-jail felony if the value was less than \$1,500 and the vehicle was a rail car;
 - third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the value was \$20,000 but less than \$100,000;
 - second-degree felony (two to 20 years in prison and an optional

fine of up to \$10,000) if the value was \$100,000 but less than \$200,000;

- first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the value was \$200,000 or more.

The amount of loss would be calculated as the cost of repairing or restoring the vehicle, if it were damaged, plus the fair market value of any stolen personal property.

If a person committed three or more offenses in a 24-hour period, it would be considered one offense and the loss amounts would be totaled to determine the punishment.

HB 2827 would eliminate a current 600-hour limit on the amount of community service time that judges can require for vehicle burglary, making the offense subject to general restrictions on community service.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

HB 2827 appropriately would make punishments for burglary of a vehicle take into account the monetary value of damages and loss of property that can occur. Currently, all burglaries of a vehicle — no matter the value of damage or loss — are punished as class A misdemeanors, with only repeat offenses resulting in higher penalties. This means that someone who breaks into a car and steals a \$15 music CD is punished the same as someone who breaks into a car and steals a \$1,500 laptop computer.

HB 2827 would address this inequity by establishing punishments that increased with the value of damage or stolen property. This would make the punishments for vehicle burglary better fit the crime and would be in line with other, similar crimes that are punished based on a value ladder. The penalties in HB 2827 would parallel punishments for crimes such as theft and criminal mischief by allowing felony punishments for high-value property theft or damage that can be imposed on first offenses. While some vehicle burglaries could fall under other offenses, such as theft or criminal mischief, it would best to structure vehicle burglary so that it could cover low- to high-value crimes and so that offenders' records reflected their crimes.

Allowing the value of loss to include both damage and theft costs would

ensure that offenders could be held accountable for the true harm they do.

OPPONENTS
SAY:

The current punishments for burglary are appropriate given that the crime is a non-violent property offense. The current penalty scheme imposes harsher punishments for repeat offenses, and this is more appropriate than increasing punishments based on value of damage and theft. Under the bill, an 18-year old, first-time offender who broke into an expensive car and took high-dollar electronic items could be charged with a felony. The same act could carry a much lower penalty if the car burgled was an older, inexpensive model without high-dollar items.

HB 2827 would go too far in establishing harsh penalties for burglary of a vehicle. Imposing a first-degree punishment for this crime would put it on the same level as some types of murder. This would be inappropriate, no matter how high the damage or value of items taken from a burgled vehicle.

HB 2827 is unnecessary because other offenses could be used for high-dollar vehicle burglaries. For example, someone who broke into a car and stole something could be charged with theft or criminal mischief. Both of these crimes are punished according to a value ladder with punishments that increase along with the value of stolen or damaged property.