

SUBJECT: Increasing penalty for obstructing highway in reckless driving exhibition

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, K. Bell, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

1 absent — Cason

SENATE VOTE: On final passage, April 28 — 26-5 (Creighton, Hancock, Hughes, Perry, Springer)

WITNESSES: No public hearing.

BACKGROUND: Under Penal Code sec. 42.03, a person commits an offense if, without legal privilege or authority, the person intentionally, knowingly, or recklessly:

- obstructs a highway, street, sidewalk, or certain other area to which the public has access; or
- disobeys a reasonable request or order to move issued by a person the actor knows to be or is informed is a peace officer, firefighter, or person with authority to control the use of the premises.

An offense under this section is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

Concerns have been raised about the increasing cases of street racing and street takeovers, which have led to the deaths of participants, spectators, and the general public. Some seek to address these concerns by enhancing penalties for obstructing a highway or passageway during a reckless driving exhibition and creating a penalty for a person who interferes with an investigation of street racing.

DIGEST:

CSSB 1495 would raise the offense for obstructing a highway or other passageway under Penal Code sec. 42.03 in certain circumstances.

Such an offense would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if it was shown on the trial of the offense that the person was operating a motor vehicle while engaging in a reckless driving exhibition.

The offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if it was shown on the trial of the offense that the person was operating a motor vehicle while engaging in a reckless driving exhibition and:

- the person had previously been convicted of the offense;
- at the time of the offense, the person was operating a motor vehicle while intoxicated; or
- a person suffered bodily injury as a result of the offense.

The bill would define "reckless driving exhibition" as an operator of a motor vehicle, on a highway or street and in the presence of two or more persons assembled for the purpose of spectating the conduct, intentionally:

- breaking the traction of the vehicle's rear tires;
- spinning the vehicle's rear tires continuously by pressing the accelerator and increasing the engine speed; and
- steering the vehicle in a manner designed to rotate the vehicle.

CSSB 1495 also would make it an offense for a person to use their body, a car, or a barricade to knowingly impede or otherwise interfere with a peace officer's investigation of prohibited conduct related to racing on a highway or a reckless driving exhibition. The offense would be a class B misdemeanor.

If conduct constituting the above offense also constituted an offense under any other law, the actor could be prosecuted under this provision, the other law, or both.

The bill would take effect September 1, 2021, and apply only to an offense committee on or after that date.

NOTES:

According to the Legislative Budget Board, the bill could result in additional demands on the correction resources of the counties or the state; however, the fiscal impact is indeterminate due to a lack of information on the number of cases to which the bill would apply.