

**SUBJECT:** Felony offense for forging auto insurance documents

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Place, Talton, Dunnam, Farrar, Hinojosa, Keel, Nixon, A. Reyna  
0 nays  
1 absent— Galloway

**WITNESSES:** For — Bill Lewis, Mothers Against Drunk Driving; Sherri Wallace, Dallas County Criminal District Attorney's Office  
  
Against — None

**BACKGROUND :** The Transportation Code requires that motor vehicle operators maintain liability insurance or other proof of financial responsibility. Transportation Code sec. 601.196 provides that forging or using forged documents to meet this requirement is a misdemeanor punishable by a fine of up to \$1,000, a county jail term of up to one year, or both. Under Transportation Code sec. 601.087, state motor vehicle insurance forms or documents purporting to be such forms are governmental records as defined by the Penal Code.

Tampering with governmental records is an offense under Penal Code sec. 37.10. Depending on the intent of the actor, the offense can be classified in a range from Class A misdemeanor, with a maximum penalty of one year in jail and a \$4,000 fine, to a third degree felony, two to 10 years in prison and optional fine of up to \$10,000.

**DIGEST:** HB 157 would amend Penal Code sec. 37.10 to specify that it applies to motor vehicle insurance or financial responsibility documents described in the Transportation Code. The bill would make it a third degree felony to possess, sell, or offer to sell such a document with the knowledge that it was obtained unlawfully or with the intent that it be used unlawfully. HB 157 also would repeal Transportation Code sec. 601.087 and 601.196.

The bill would take effect September 1, 1997, and apply to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

HB 157 is necessary to combat a widespread black market in forged insurance cards in Texas by prosecuting perpetrators to the full extent of the law. Criminal procedures require that offenders be prosecuted under the most specific law, so currently the state is forced to use the relatively lenient penalties provided by the Transportation Code in prosecuting these scam artists. The result is that they are quickly back on the streets, churning out even more forged documents.

HB 157 would delete reference to penalties in the Transportation Code and clarify that the Penal Code applies to forgery of insurance documents. Classifying this offense as a third degree felony would not be inappropriately harsh; law enforcement officers are catching forgers with as many as 1,000 fake insurance cards at a time. Each sells for about \$20, making the average haul worth about \$20,000 in potential profit. The Penal Code allows for aggregating the value of property stolen in a single transaction or as part of a common scheme; an aggregated amount of \$20,000 and above is a third degree felony.

Increasing the penalty for possessing or selling counterfeit insurance cards from a misdemeanor to a third degree felony would bring this offense on par with the similar offenses of possessing or selling counterfeit car titles, registration or inspection stickers, which currently are third degree felonies. HB 157 would make the law more consistent by treating alike similar offenses involving government documents.

**OPPONENTS  
SAY:**

It is inappropriate to elevate the offense of possessing or selling counterfeit insurance cards to the same level of penalty prescribed for tampering with license plates, registrations or car titles. Although defined under the Transportation Code as a government document, an insurance card clearly is not a "government document" on par with these other types of paper.

The designation of third degree felony should be reserved for more serious or violent crimes. Enhancing the penalty for selling a false insurance card from a misdemeanor to a third degree felony would be inappropriately harsh because it would bypass the state jail felony category that was designed for property offenses and nonviolent crimes.