

- SUBJECT:** Creating a felony offense for forging auto insurance documents
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Hinojosa, Dunnam, Garcia, Green, Keel, Nixon, Smith, Talton, Wise
0 nays
- WITNESSES:** For — Bill Lewis, Mothers Against Drunk Driving
Against — None
On — Brenda Ackerman-Sioson and Marshall Caskey, Texas Department of Public Safety
- BACKGROUND:** The Transportation Code requires that motor vehicle operators maintain liability insurance or other proof of financial responsibility. Under sec. 601.196, forging or using forged documents to meet this requirement is a misdemeanor punishable by a fine of up to \$1,000 and/or up to one year in a county jail. Under 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 may range from Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000, to a third-degree felony, punishable by two to 10 years in prison and an optional fine of up to \$10,000.
- DIGEST:** HB 319 would specify that Penal Code, sec. 37.10 applies to motor vehicle insurance or financial responsibility documents as 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 319 also would repeal Transportation Code, secs. 601.087 and 601.196, relating to forged and falsified government documents.

The bill would take effect September 1, 1999, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 319 is necessary to combat a widespread black market in forged insurance cards in Texas by allowing perpetrators to be prosecuted to the full extent of the law.

Because criminal procedures require that offenders be prosecuted under the most specific law, the state now must use the relatively lenient penalties provided by the Transportation Code in prosecuting these scam artists. As a result, they are quickly back on the streets, churning out even more forged documents.

HB 319 would delete references to penalties in the Transportation Code and would clarify that the Penal Code applies to forgery of insurance documents. Making this offense a third-degree felony would not be inappropriately harsh. Law enforcement officers have caught forgers with as many as 1,000 fake insurance cards at a time. Each card 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 or registration or inspection stickers, which now are third-degree felonies. HB 319 would make the law more consistent by treating alike similar offenses involving government documents.

**OPPONENTS
SAY:**

It would be 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" like other documents.

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 also would be inappropriate because it

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would bypass the state jail felony category that was designed for property offenses and nonviolent crimes.

NOTES: During the 1997 legislative session, a similar bill, HB 157 by Driver, passed the House but died in the Senate.