

SUBJECT: Higher penalty for using false identification

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 6 ayes — Driver, Jackson, Burnam, Frost, Hegar, Veasey
0 nays
1 absent — Hupp

WITNESSES: None

BACKGROUND: It is illegal knowingly to use or present a driver's license or other certificate of identification that is fictitious, altered, or belongs to another individual. These acts are punishable under Section 521.451 of the Transportation Code as class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000) or under Section 37.10 of the Penal Code as class A misdemeanors (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: HB 699 would amend Section 521.451(b) of the Transportation Code so that an offense listed under this section would be punishable as a class A misdemeanor.

Section 521.453(d) also would be amended to state that if any of the offenses outlined under either 521.451 of the Transportation Code or 37.10 of the Penal Code were committed by someone under the age of 21 for the purpose of appearing to be 21 or older, the offense would be considered a class C misdemeanor (maximum fine of \$500).

The bill would take effect September 1, 2005, and would apply to any offenses committed on or after this date.

SUPPORTERS SAY: HB 699 would be an important tool in fighting identity theft. Identity theft is the fastest-growing crime in the United States, and Texas is among the 10 states with the highest rates of reported identity theft complaints. Raising the penalty to a class A misdemeanor in both codes would make prosecution of this crime more uniform and provide a stronger

disincentive to potential offenders. The severity of this punishment is appropriate given the potential harm that can come to those victimized in these crimes.

The bill would not change the class C misdemeanor penalty already specified for those under age 21 using a fake ID to attempt to show they are 21 or older. It would clarify beyond doubt that the higher penalty would not apply in such cases.

**OPPONENTS
SAY:**

HB 699 would go too far in making all of these offenses class A misdemeanors and doubling the potential punishment for them. More severe penalties should be reserved for those identity theft crimes intentionally committed to harm another individual. A class B misdemeanor is sufficient punishment for perpetrators who do not intentionally inflict harm because it provides a disincentive for committing identity fraud without aligning the punishment too closely with the punishment of more severe crimes.

NOTES:

Rep. McCall plan to offer an amendment that would make an offense under Transportation Code, sec. 521.451, knowingly using or presenting a driver's license or other certificate of identification that is fictitious, altered, or belongs to another individual, a class A rather than a class B misdemeanor, as in the original bill. It would specify that if such conduct also constituted an offense under Alcoholic Beverage Code, sec. 106.07, falsely stating or presenting a document that a person is 21 or older to a person selling or serving alcoholic beverages, the offender could be prosecuted only under sec. 106.07. An offense under sec. 106.07 is punishable as a class C misdemeanor and includes suspension of a minor's driver's license, with additional penalties for repeat offenses. The amendment would delete references in the original bill to violations of Transportation Code, sec. 521.453, which more generally prohibits use of false identification by persons under age 21, and the provision that such an offense would remain a class C misdemeanor even if the same conduct also could be prosecuted as a class A misdemeanor under the Transportation Code or Penal Code.