

- SUBJECT:** Enhanced penalties for property crimes committed during a disaster
- COMMITTEE:** Defense and Veterans' Affairs — favorable, without amendment
- VOTE:** 6 ayes — Corte, Vaught, Edwards, Farias, Pickett, C. Turner
0 nays
3 absent — Chavez, Maldonado, Ortiz
- WITNESSES:** For — James Graham, Conroe Police Department, Conroe Police Officers Association; (*Registered, but did not testify:* Katrina Daniels, Bexar County District Attorney's Office; Michele Gregg, Texas Apartment Association; Tami Miller, Center Point Energy; Stephen Minick, Texas Association of Business; Jason Skaggs, Texas and Southwestern Cattle Raisers Association)

Against — Colleen McGue, American Civil Liberties Union

On — None
- BACKGROUND:** Chapters 28-31 of the Penal Code define and set penalties for the property offenses of arson or other damage, robbery, burglary, trespass, and theft. Subchapter D of Chapter 12 establishes exemptions to the standard criminal penalties found in the rest of the Penal Code. Current exemptions provide increased penalties for bias- or prejudice-based crimes, crimes that result in a loss for a nursing or convalescent facility, and crimes involving the use of illegal substances.
- DIGEST:** HB 761 would enhance the punishment for most property offenses if committed within a state- or local-declared disaster area by increasing the punishment for the offense to the next highest category. However, if the punishment ordinarily was a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), it would remain so under the bill, but the minimum jail term would be raised to 180 days.

The bill would apply only to offenses committed on or after the bill's effective date of September 1, 2009.

**SUPPORTERS
SAY:**

During Hurricane Ike, several cities experienced problems with looting and had to increase the number of police patrols to deal with the issue. Curfews alone are not enough to deter looting, because many looters are discovered after set curfew times. Additionally, some residents do not evacuate during hurricanes out of fear that their home or business will be broken into or looted. By enhancing the penalties for looting and other property crimes, HB 761 would help deter potential criminal behavior and provide greater peace of mind to residents and business owners. Adequately punishing criminals should be of greater concern than a marginal increase in incarceration costs.

**OPPONENTS
SAY:**

Increasing the amount of time criminals spend in jail increases the burden on the state or the localities that must pay for that incarceration. This bill would require more money to be spent without increasing the number of people arrested for these crimes.

**OTHER
OPPONENTS
SAY:**

This bill should provide an exemption for people who steal water when no fresh water is available to them.