

BILL ANALYSIS

C.S.H.B. 381
By: Burkett
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Legislation enacted during a previous Texas legislative session established the penalty for certain burglaries of a vehicle as a Class A misdemeanor. Critics assert that this has caused a substantial increase in the value of property loss resulting from vehicle burglaries. C.S.H.B. 381 seeks to account for the amount of pecuniary loss to tangible personal property resulting from the commission of burglary of a vehicle in determining the penalty for the offense.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 381 amends the Penal Code to change the penalty for burglary of a vehicle from a Class A misdemeanor or state jail felony to penalties ranging from a Class A misdemeanor to a first degree felony depending on the amount of pecuniary loss to tangible personal property resulting from the commission of the offense and certain other conditions, as applicable. The bill establishes that the amount of pecuniary loss to tangible personal property is the sum of the cost of repairing or restoring the vehicle, if the defendant damaged the vehicle in the course of committing the offense, and the fair market value of any tangible personal property the defendant stole from the vehicle, if the defendant committed theft in the course of committing the offense. The bill authorizes the conduct of a defendant who commits three or more burglary of a vehicle offenses in a 24-hour period pursuant to one scheme or continuing course of conduct to be considered as one offense and the amounts of pecuniary loss aggregated in determining the grade of offense.

C.S.H.B. 381 repeals Sections 3(h) and 4(f), Article 42.12, Code of Criminal Procedure, establishing minimum periods of community supervision for a burglary of a vehicle offense punishable as a Class A misdemeanor with a minimum term of confinement.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 381 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 30.04, Penal Code, is amended by amending Subsections (d) and (e) and adding Subsections (d-2) and (d-3) to read as follows:

(d) An offense under this section is a:

(1) Class B misdemeanor if the amount of pecuniary loss to tangible personal property is less than \$500;

(2) Class A misdemeanor if the amount of pecuniary loss to tangible personal property is \$500 or more but less than \$1,500;

(3) [~~except that:~~

[(1) ~~the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section; and~~

[(2) ~~the offense is a~~] state jail felony if:

(A) the amount of pecuniary loss to tangible personal property is \$1,500 or more but less than \$20,000;

(B) the amount of pecuniary loss to tangible personal property is less than \$1,500 and it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(C) the amount of pecuniary loss to tangible personal property is less than \$1,500 and [(B)] the vehicle or part of the vehicle broken into or entered is a rail car;

(4) felony of the third degree if the amount of pecuniary loss to tangible personal property is \$20,000 or more but less than \$100,000;

(5) felony of the second degree if the amount of pecuniary loss to tangible personal property is \$100,000 or more but less than \$200,000; or

(6) felony of the first degree if the amount of pecuniary loss to tangible personal property is \$200,000 or more.

(d-2) For the purposes of Subsection (d), the amount of pecuniary loss to tangible personal property is the sum of:

(1) the cost of repairing or restoring the

HOUSE COMMITTEE SUBSTITUTE

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(1) Class A misdemeanor if the amount of pecuniary loss to tangible personal property is less than \$1,500;

[~~except that:~~

[(1) ~~the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section; and~~

(2) [~~the offense is a~~] state jail felony if:

(A) the amount of pecuniary loss to tangible personal property is \$1,500 or more but less than \$20,000;

(B) the amount of pecuniary loss to tangible personal property is less than \$1,500 and it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(C) the amount of pecuniary loss to tangible personal property is less than \$1,500 and [(B)] the vehicle or part of the vehicle broken into or entered is a rail car;

(3) felony of the third degree if the amount of pecuniary loss to tangible personal property is \$20,000 or more but less than \$100,000;

(4) felony of the second degree if the amount of pecuniary loss to tangible personal property is \$100,000 or more but less than \$200,000; or

(5) felony of the first degree if the amount of pecuniary loss to tangible personal property is \$200,000 or more.

(d-2) For the purposes of Subsection (d), the amount of pecuniary loss to tangible personal property is the sum of:

(1) the cost of repairing or restoring the

vehicle, if the defendant damaged the vehicle in the course of committing the offense; and

(2) the fair market value of any tangible personal property the defendant stole from the vehicle, if the defendant committed theft in the course of committing the offense.

(d-3) If the defendant, pursuant to one scheme or continuing course of conduct, commits three or more offenses under this section in a 24-hour period, the conduct may be considered as one offense and the amounts of pecuniary loss aggregated in determining the grade of offense.

(e) It is a defense to prosecution under this section that the defendant [æetər] entered a rail car or any part of a rail car and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

SECTION 2. Section 16(b), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) The amount of community service work ordered by the judge:

(1) may not exceed 1,000 hours for an offense classified as a first degree felony;

(2) may not exceed 800 hours for an offense classified as a second degree felony;

(3) may not exceed 600 hours for an offense classified as a third degree felony;

(4) may not exceed 400 hours for an offense classified as a state jail felony;

(5) may not[=

~~[(A) exceed 600 hours for an offense under Section 30.04, Penal Code, classified as a Class A misdemeanor; or~~

~~[(B)] exceed 200 hours for an [any other]~~ offense classified as a Class A misdemeanor or for any other misdemeanor for which the maximum permissible confinement, if any, exceeds six months or the maximum permissible fine, if any, exceeds \$4,000; and
(6) may not exceed 100 hours for an offense classified as a Class B misdemeanor or for any other misdemeanor for which the maximum permissible confinement, if any, does not exceed six months and the maximum permissible fine, if any, does not exceed \$4,000.

vehicle, if the defendant damaged the vehicle in the course of committing the offense; and

(2) the fair market value of any tangible personal property the defendant stole from the vehicle, if the defendant committed theft in the course of committing the offense.

(d-3) If the defendant, pursuant to one scheme or continuing course of conduct, commits three or more offenses under this section in a 24-hour period, the conduct may be considered as one offense and the amounts of pecuniary loss aggregated in determining the grade of offense.

(e) It is a defense to prosecution under this section that the defendant [æetər] entered a rail car or any part of a rail car and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

No equivalent provision.

SECTION 3. Sections 3(h) and 4(f), Article 42.12, Code of Criminal Procedure, are repealed.

SECTION 2. Same as introduced version.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. Same as introduced version.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.