

SUBJECT: Allowing forfeiture of contraband used in offense of racing on a highway

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Collier, K. Bell, Cason, Cook, Crockett, Murr, Vasut

0 nays

2 absent — Hinojosa, A. Johnson

WITNESSES: For — Chris Caso, City of Dallas; Jesse Reyes, Dallas Police Department; Ruth Torres; (*Registered, but did not testify:* Robert McClinton, Bell County Sheriffs Department; M. Paige Williams for Dallas County Criminal District Attorney John Creuzot; Frederick Frazier, Dallas Police Association/State FOP; George Craig, Houston Police Department; Ray Hunt, HPOU; James Smith, San Antonio Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Tom Maddox, Sheriffs Association of Texas; John Wilkerson, Texas Municipal Police Association; Lara Storm)

Against — (*Registered, but did not testify:* Angelica Cogliano, Austin Lawyers Guild)

On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Under Code of Criminal Procedure (CCP) ch. 59, Texas law enforcement officers may take private property if it is used or intended to be used for certain crimes. Seized property is referred to as contraband. A civil court may then transfer ownership of the property to a law enforcement department or other government office that may use or sell it. Seizure is the taking of the property, and forfeiture is the transfer of ownership of the property.

Property may be seized if it is used or intended to be used to commit a felony or misdemeanor offense listed in CCP art. 59.01(2), including any

first- or second-degree felony in the Penal Code and any felony in the Texas Controlled Substances Act.

Transportation Code sec. 545.420 makes racing on a highway a crime, with penalties ranging from misdemeanors to felonies, depending on the circumstances, with the lowest level offense being a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000). It is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if an individual has previously been convicted one time of an offense under that section or if at the time of the offense the individual was operating the vehicle while intoxicated or possessed an open container of alcohol.

Offenses are state-jail felonies (180 days to two years in a state jail and an optional fine of up to \$10,000) for a third offense; third-degree felonies (two to 10 years in prison and an optional fine of up to \$10,000) if an individual suffered bodily injury as a result of the offense; and second-degree felonies (two to 20 years in prison and an optional fine of up to \$10,000) if an individual suffered serious bodily injury or death.

Some have suggested that additional tools are needed to address illegal street racing.

DIGEST: CSHB 2315 would make property used or intended to be used in the commission of the offense of racing on a highway contraband that could be seized and forfeited under Code of Criminal Procedure ch. 59 if the offense was a class A misdemeanor or a felony.

The bill would take effect September 1, 2021, and would apply to property or proceeds seized on or after that date.