

By: Turner of Dallas

H.B. No. 2315

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the criminal offenses of racing on a
3 highway and organized criminal activity involving that conduct and
4 to the forfeiture of contraband relating to that conduct; creating
5 a criminal offense.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. (a) Article 59.01(2), Code of Criminal
8 Procedure, as effective until January 1, 2022, is amended to read as
9 follows:

10 (2) "Contraband" means property of any nature,
11 including real, personal, tangible, or intangible, that is:

12 (A) used in the commission of:

13 (i) any first or second degree felony under
14 the Penal Code;

15 (ii) any felony under Section 15.031(b),
16 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
17 Code;

18 (iii) any felony under Chapter 43, Penal
19 Code, except as provided by Paragraph (B);

20 (iv) any felony under The Securities Act
21 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

22 (v) any offense under Chapter 49, Penal
23 Code, that is punishable as a felony of the third degree or state
24 jail felony, if the defendant has been previously convicted three

1 times of an offense under that chapter;

2 (B) used or intended to be used in the commission
3 of:

4 (i) any felony under Chapter 481, Health
5 and Safety Code (Texas Controlled Substances Act);

6 (ii) any felony under Chapter 483, Health
7 and Safety Code;

8 (iii) a felony under Chapter 151, Finance
9 Code;

10 (iv) any felony under Chapter 20A or 34,
11 Penal Code;

12 (v) a Class A misdemeanor under Subchapter
13 B, Chapter 365, Health and Safety Code, if the defendant has been
14 previously convicted twice of an offense under that subchapter;

15 (vi) any felony under Chapter 32, Human
16 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
17 involves a health care program, as defined by Section 35A.01, Penal
18 Code;

19 (vii) a Class B misdemeanor under Chapter
20 522, Business & Commerce Code;

21 (viii) a Class A misdemeanor under Section
22 306.051, Business & Commerce Code;

23 (ix) any offense under Section 42.10, Penal
24 Code;

25 (x) any offense under Section 46.06(a)(1)
26 or 46.14, Penal Code;

27 (xi) any offense under Chapter 71, Penal

1 Code;

2 (xii) any offense under Section 20.05,
3 20.06, 20.07, 43.04, or 43.05, Penal Code; ~~or~~

4 (xiii) an offense under Section 326.002,
5 Business & Commerce Code; or

6 (xiv) a Class A misdemeanor or any felony
7 under Section 545.420, Transportation Code;

8 (C) the proceeds gained from the commission of a
9 felony listed in Paragraph (A) or (B) of this subdivision, a
10 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii)
11 of this subdivision, or a crime of violence;

12 (D) acquired with proceeds gained from the
13 commission of a felony listed in Paragraph (A) or (B) of this
14 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
15 (xi), or (xii) of this subdivision, or a crime of violence;

16 (E) used to facilitate or intended to be used to
17 facilitate the commission of a felony under Section 15.031 or
18 Chapter 43, Penal Code; or

19 (F) used to facilitate or intended to be used to
20 facilitate the commission of an offense under Section 20.05, 20.06,
21 or 20.07 or Chapter 20A, Penal Code.

22 (b) Article 59.01(2), Code of Criminal Procedure, as
23 effective on January 1, 2022, is amended to read as follows:

24 (2) "Contraband" means property of any nature,
25 including real, personal, tangible, or intangible, that is:

26 (A) used in the commission of:

27 (i) any first or second degree felony under

1 the Penal Code;

2 (ii) any felony under Section 15.031(b),
3 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
4 Code;

5 (iii) any felony under Chapter 43, Penal
6 Code, except as provided by Paragraph (B);

7 (iv) any felony under The Securities Act
8 (Title 12, Government Code); or

9 (v) any offense under Chapter 49, Penal
10 Code, that is punishable as a felony of the third degree or state
11 jail felony, if the defendant has been previously convicted three
12 times of an offense under that chapter;

13 (B) used or intended to be used in the commission
14 of:

15 (i) any felony under Chapter 481, Health
16 and Safety Code (Texas Controlled Substances Act);

17 (ii) any felony under Chapter 483, Health
18 and Safety Code;

19 (iii) a felony under Chapter 151, Finance
20 Code;

21 (iv) any felony under Chapter 20A or 34,
22 Penal Code;

23 (v) a Class A misdemeanor under Subchapter
24 B, Chapter 365, Health and Safety Code, if the defendant has been
25 previously convicted twice of an offense under that subchapter;

26 (vi) any felony under Chapter 32, Human
27 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that

1 involves a health care program, as defined by Section 35A.01, Penal
2 Code;

3 (vii) a Class B misdemeanor under Chapter
4 522, Business & Commerce Code;

5 (viii) a Class A misdemeanor under Section
6 306.051, Business & Commerce Code;

7 (ix) any offense under Section 42.10, Penal
8 Code;

9 (x) any offense under Section 46.06(a)(1)
10 or 46.14, Penal Code;

11 (xi) any offense under Chapter 71, Penal
12 Code;

13 (xii) any offense under Section 20.05,
14 20.06, 20.07, 43.04, or 43.05, Penal Code; ~~or~~

15 (xiii) an offense under Section 326.002,
16 Business & Commerce Code; or

17 (xiv) a Class A misdemeanor or any felony
18 under Section 545.420, Transportation Code;

19 (C) the proceeds gained from the commission of a
20 felony listed in Paragraph (A) or (B) of this subdivision, a
21 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii)
22 of this subdivision, or a crime of violence;

23 (D) acquired with proceeds gained from the
24 commission of a felony listed in Paragraph (A) or (B) of this
25 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
26 (xi), or (xii) of this subdivision, or a crime of violence;

27 (E) used to facilitate or intended to be used to

1 facilitate the commission of a felony under Section 15.031 or
2 Chapter 43, Penal Code; or

3 (F) used to facilitate or intended to be used to
4 facilitate the commission of an offense under Section 20.05, 20.06,
5 or 20.07 or Chapter 20A, Penal Code.

6 SECTION 2. Section 71.02(a), Penal Code, is amended to read
7 as follows:

8 (a) A person commits an offense if, with the intent to
9 establish, maintain, or participate in a combination or in the
10 profits of a combination or as a member of a criminal street gang,
11 the person commits or conspires to commit one or more of the
12 following:

13 (1) murder, capital murder, arson, aggravated
14 robbery, robbery, burglary, theft, aggravated kidnapping,
15 kidnapping, aggravated assault, aggravated sexual assault, sexual
16 assault, continuous sexual abuse of young child or children,
17 solicitation of a minor, forgery, deadly conduct, assault
18 punishable as a Class A misdemeanor, burglary of a motor vehicle, or
19 unauthorized use of a motor vehicle;

20 (2) any gambling offense punishable as a Class A
21 misdemeanor;

22 (3) promotion of prostitution, aggravated promotion
23 of prostitution, or compelling prostitution;

24 (4) unlawful manufacture, transportation, repair, or
25 sale of firearms or prohibited weapons;

26 (5) unlawful manufacture, delivery, dispensation, or
27 distribution of a controlled substance or dangerous drug, or

1 unlawful possession of a controlled substance or dangerous drug
2 through forgery, fraud, misrepresentation, or deception;

3 (5-a) causing the unlawful delivery, dispensation, or
4 distribution of a controlled substance or dangerous drug in
5 violation of Subtitle B, Title 3, Occupations Code;

6 (6) any unlawful wholesale promotion or possession of
7 any obscene material or obscene device with the intent to wholesale
8 promote the same;

9 (7) any offense under Subchapter B, Chapter 43,
10 depicting or involving conduct by or directed toward a child
11 younger than 18 years of age;

12 (8) any felony offense under Chapter 32;

13 (9) any offense under Chapter 36;

14 (10) any offense under Chapter 34, 35, or 35A;

15 (11) any offense under Section 37.11(a);

16 (12) any offense under Chapter 20A;

17 (13) any offense under Section 37.10;

18 (14) any offense under Section 38.06, 38.07, 38.09, or
19 38.11;

20 (15) any offense under Section 42.10;

21 (16) any offense under Section 46.06(a)(1) or 46.14;

22 (17) any offense under Section 20.05 or 20.06;

23 (18) any offense under Section 16.02; [~~or~~]

24 (19) any offense under Section 545.420,
25 Transportation Code; or

26 (20) any offense classified as a felony under the Tax
27 Code.

1 SECTION 3. Section 545.420, Transportation Code, is amended
2 by adding Subsection (a-1) and amending Subsections (d), (e), (f),
3 (g), and (h) to read as follows:

4 (a-1) A person commits an offense if the person knowingly
5 allows another person to use the person's motor vehicle to engage
6 in conduct prohibited under Subsection (a).

7 (d) Except as provided by Subsections (e)-(h), an offense
8 under this section [~~Subsection (a)~~] is a Class B misdemeanor.

9 (e) An offense under this section [~~Subsection (a)~~] is a
10 Class A misdemeanor if it is shown on the trial of the offense that:

11 (1) the person has previously been convicted one time
12 of an offense under this section [~~that subsection~~]; or

13 (2) the person, at the time of the offense:

14 (A) was operating the vehicle while intoxicated,
15 as defined by Section 49.01, Penal Code; or

16 (B) was in possession of an open container, as
17 defined by Section 49.031, Penal Code.

18 (f) An offense under this section [~~Subsection (a)~~] is a
19 state jail felony if it is shown on the trial of the offense that the
20 person has previously been convicted two times of an offense under
21 this section [~~that subsection~~].

22 (g) An offense under this section [~~Subsection (a)~~] is a
23 felony of the third degree if it is shown on the trial of the offense
24 that as a result of the offense, an individual suffered bodily
25 injury.

26 (h) An offense under this section [~~Subsection (a)~~] is a
27 felony of the second degree if it is shown on the trial of the

1 offense that as a result of the offense, an individual suffered
2 serious bodily injury or death.

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

11 SECTION 5. This Act takes effect September 1, 2021.