

## **BILL ANALYSIS**

H.B. 2275  
By: Cook, Byron  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapter 704.001 of the Transportation Code aims to provide a solution for DWI recidivism. This provision allows prosecutors to seize and forfeit a repeat offenders' vehicle after the third DWI conviction. This law is infrequently prosecuted because it is poorly drafted, cumbersome, and ineffective. Under HB 2275, TRC 704.001 will be reformed and made part of Chapter 59.01 of the Texas Code of Criminal Procedure to aid police and prosecutors in fighting this epic problem.

Under current TRC 704.001, prosecutors must file various motions and attend numerous hearings before a vehicle may be seized. These burdens do not protect a defendant's due process rights. On the other hand, TCCP 59.01 gives police the authority to seize a vehicle at the scene, and the offender is provided the opportunity to reclaim their vehicle. In addition, Chapter 59 is followed by a wide body of current case law, and it a tried and tested method for conducting asset forfeiture proceedings.

### **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**

House Bill 2275 amends Section 59.01(2)(A) by adding subsection (iv). This subsection applies to the forfeiture of contraband used in the commission of an offense under Chapter 49 of the Penal Code, if the defendant has been previously convicted three or more times of an offense under that Chapter. Also repeals Chapter 704 of the Transportation Code, thereby removing existing procedures.

### **EFFECTIVE DATE**

September 1, 2005.