

By: Driver

H.B. No. 2285

A BILL TO BE ENTITLED

AN ACT

relating to the use of proceeds from the sale of certain forfeited property in a criminal trafficking case.

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

SECTION 1. Article 59.06, Code of Criminal Procedure, is amended by adding Subsection (r) to read as follows:

(r)(1) Notwithstanding any other provision of this article, and regardless of the existence of a local agreement between the sheriff and the attorney representing the state, if the forfeited property is a motor vehicle used in the commission of an offense under Chapter 20A, Penal Code, the sheriff of the county in which the offense was committed may sell the property and, after deducting amounts as required or permitted by Subdivision (2), shall deposit the proceeds of the sale into a county trafficking property damage remedial fund in the county treasury. The sheriff shall conduct any sale of the property in a manner that is reasonably expected to result in the receipt of the fair market value for the property.

(2) From the proceeds of a sale described by Subdivision (1), the sheriff shall deduct any amount owed to an interest holder, to the extent of the interest holder's nonforfeitable interest. The sheriff may deduct costs to the sheriff that were attributable to the sale, not to exceed 20 percent of the proceeds of the sale minus any amount owed to an interest

1 holder.

2 (3) The sheriff shall administer a county trafficking
3 property damage remedial fund on behalf of property owners
4 described by this subdivision. Interest received from the
5 investment of money in the fund shall be credited to the fund. The
6 sheriff may use any money in the fund only to pay a civil judgment
7 for damages that is entered to provide relief to a property owner
8 with respect to real or personal property damaged or destroyed in
9 the county as a result of the commission of an offense under Chapter
10 20A, Penal Code. The sheriff shall timely pay the claim on
11 submission of an application and a copy of the appropriate judgment
12 and may reduce payment on the claim as necessary to account for any
13 recovery on the claim by the property owner from the defendant in
14 the claim. If a property owner accepts payment of a claim under
15 this subdivision, the sheriff is subrogated to all of the owner's
16 rights to receive damages or other form of compensation from a
17 collateral source for the loss to the property.

18 (4) As soon as practicable after an annual audit of any
19 county trafficking property damage remedial fund is performed under
20 Subsection (g), the sheriff shall submit the audit results for
21 publication in a newspaper with general circulation in the county.
22 The comptroller may perform an audit of the fund at any time,
23 regardless of whether the annual audit is timely performed within
24 the period required by Subsection (g)(1).

25 (5) Notwithstanding any other provision of this
26 subsection, if no claims are paid during any five-year period after
27 the date money is first deposited in a county trafficking property

1 damage remedial fund, the sheriff may elect to close the fund and
2 use the remaining money in the fund for any purpose for which a
3 county law enforcement agency may use money under this article.

4 SECTION 2. Article 59.06, Code of Criminal Procedure, as
5 amended by this Act, applies to personal property seized or taken
6 into custody on or after the effective date of this Act. Personal
7 property seized or taken into custody before the effective date of
8 this Act is governed by the law in effect on the date the property is
9 seized or taken into custody, and the former law is continued in
10 effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2009.