By:  Turner of Dallas, et al. H.B. No. 2315

     (Senate Sponsor - Huffman)

(In the Senate - Received from the House April 28, 2021; May 10, 2021, read first time and referred to Committee on Criminal Justice; May 20, 2021, reported favorably by the following vote: Yeas 7, Nays 0; May 20, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa        X

Miles           X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to the forfeiture of contraband relating to the criminal offense of racing on a highway.

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

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

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

(A)  used in the commission of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiv)  a Class A misdemeanor or any felony under Section 545.420, Transportation Code, other than a Class A misdemeanor that is classified as a Class A misdemeanor based solely on conduct constituting a violation of Subsection (e)(2)(B) of that section;

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

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

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

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

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

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

(A)  used in the commission of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiv)  a Class A misdemeanor or any felony under Section 545.420, Transportation Code, other than a Class A misdemeanor that is classified as a Class A misdemeanor based solely on conduct constituting a violation of Subsection (e)(2)(B) of that section;

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

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

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

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

SECTION 2.  The change in law made by this Act applies only to property or proceeds seized on or after the effective date of this Act. Property or proceeds seized before the effective date of this Act are governed by the law in effect on the date the property or proceeds were seized, and the former law is continued in effect for that purpose. For purposes of this section, property or proceeds were seized before the effective date of this Act if any portion of the property or proceeds were seized before that date.

SECTION 3.  This Act takes effect September 1, 2021.

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