

By: Rose

H.B. No. 3478

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offenses of reckless driving and racing on a highway and to the forfeiture of contraband relating to that conduct; increasing a criminal penalty.

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

SECTION 1. This Act shall be known as Olivia's Law.

SECTION 2. (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

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 545.401 or 545.420, Transportation Code, if the
8 defendant has been previously convicted three or more times of an
9 offense under either section;

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

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

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

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

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

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

1 (A) used in the commission of:

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

4 (ii) any felony under Section 15.031(b),
5 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal
6 Code;

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

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

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

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

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

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

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

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

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

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

5 (vii) a Class B misdemeanor under Chapter
6 522, Business & Commerce Code;

7 (viii) a Class A misdemeanor under Section
8 306.051, Business & Commerce Code;

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

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

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

15 (xii) any offense under Section 20.05,
16 20.06, 20.07, 43.04, or 43.05, Penal Code; ~~or~~

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

19 (xiv) a Class A misdemeanor or any felony
20 under Section 545.401 or 545.420, Transportation Code, if the
21 defendant has been previously convicted three or more times of an
22 offense under either section;

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

27 (D) acquired with proceeds gained from the

1 commission of a felony listed in Paragraph (A) or (B) of this
2 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),
3 (xi), or (xii) of this subdivision, or a crime of violence;

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

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

10 SECTION 3. Section 545.401, Transportation Code, is amended
11 by adding Subsection (a-1) and amending Subsection (b) to read as
12 follows:

13 (a-1) There is a rebuttable presumption that the registered
14 owner of the motor vehicle is the person operating the vehicle at
15 the time an offense under this section occurred.

16 (b) An offense under this section is a Class B misdemeanor,
17 except that the offense is a Class A misdemeanor if the person has
18 been previously convicted under this section [~~punishable by:~~

19 ~~(1) a fine not to exceed \$200,~~

20 ~~(2) confinement in county jail for not more than 30~~
21 ~~days, or~~

22 ~~(3) both the fine and the confinement].~~

23 SECTION 4. Section 545.420, Transportation Code, is amended
24 by adding Subsection (c) to read as follows:

25 (c) There is a rebuttable presumption that the registered
26 owner of the motor vehicle is the person operating the vehicle at
27 the time an offense under this section occurred.

1 SECTION 5. Subchapter C, Chapter 1001, Education Code, is
2 amended by adding Section 1001.113 to read as follows:

3 Sec. 1001.113. INFORMATION RELATING TO STREET RACING. The
4 commission by rule shall require that information relating to the
5 dangers and consequences of street racing in violation of Section
6 545.420, Transportation Code, be included in the curriculum of each
7 driver education and driving safety course.

8 SECTION 6. (a) Not later than March 1, 2022, the Texas
9 Commission of Licensing and Regulation shall adopt the rules
10 required by Section 1001.113, Education Code, as added by this Act.

11 (b) Not later than September 1, 2022, each provider of a
12 driver education course or driving safety course shall submit the
13 curriculum adopted pursuant to Section 1001.113, Education Code, as
14 added by this Act, to the Texas Commission of Licensing and
15 Regulation for approval.

16 SECTION 7. The changes in law made by this Act apply only to
17 an offense committed on or after the effective date of this Act. An
18 offense committed before the effective date of this Act is governed
19 by the law in effect on the date the offense was committed, and the
20 former law is continued in effect for that purpose. For purposes of
21 this section, an offense was committed before the effective date of
22 this Act if any element of the offense occurred before that date.

23 SECTION 8. This Act takes effect September 1, 2021.