

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1442
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Criminal Justice
5/10/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Before the passage of H.B. 2315 and S.B. 1495 in 2021, officers had been using the deadly conduct statute to seize cars engaged in street takeovers when appropriate. However, in the 87th legislative session, a new, more specific offense of "reckless driving exhibition" was created in Section 42.03(f) of the Penal Code. Because of the new, more specific, offense of reckless driving exhibition, police cannot use the charge of deadly conduct as the basis of an asset forfeiture seizure in some circumstances.

The issue is that the reckless driving exhibition offense is not an enumerated offense under Engaging in Organized Criminal Activity (Penal Code, Chapter 71), so it cannot be elevated into Chapter 59 using Chapter 71 as a legal basis for seizing the vehicle used in the conduct. Organized street racing and street takeovers continued to plague Houston.

H.B. 1442 addresses these concerns by creating a new section of code under the obstructing a highway or other passageway statute that will allow for vehicles and other contraband being used during street takeovers to be seized by law enforcement. Lastly, it adds the reckless driving exhibition statutes from Section 42.03, Penal Code, to the engaging in organized criminal activity statute. These changes will give law enforcement and prosecutors another tool to go after organized street racing and street takeovers in Texas.

Committee Substitute:

The committee substitute adds the racing on a highway statute to the list of organized criminal activity and also allows for the forfeiture of any vehicle seized in the commission of the crime.

C.S.H.B. 1442 amends current law relating to the prosecution of certain criminal conduct involving a reckless driving exhibition or racing on a highway and to the forfeiture of contraband as a result of a reckless driving exhibition.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 59.01(2), Code of Criminal Procedure, as follows:

(2) Defines "contraband" as property of any nature, including real, personal, tangible, or intangible that is:

(A) makes no changes to this paragraph;

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

(i)-(xii) makes no changes to these subparagraphs;

(xiii) makes a nonsubstantive change to this subparagraph;

(xiv) any offense under Section 545.420 (Racing on Highway), Transportation Code, rather than 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) (relating to providing that an offense is a Class A misdemeanor if it is shown on the trial of the offense that the person at the time of the offense was operating the vehicle while intoxicated or in possession of an open container) of that section; or

(xv) any offense punishable under Section 42.03(d) (relating to providing that an offense under Section 42.03 (Obstructing Highway or Other Passageway) is a Class A misdemeanor if it is shown on the trial of the offense that, at the time of the offense, the person was operating a motor vehicle while engaging in a reckless driving exhibition) or (e) (relating to providing that an offense under this section is a state jail felony if it is shown on the trial of the offense that, at the time of the offense, the person was operating a motor vehicle while engaging in a reckless driving exhibition), Penal Code;

(C) the proceeds gained from the commission of a felony listed in certain paragraphs of this subdivision, including Paragraph (B)(xiv) or (xv) of this subdivision, or a crime of violence;

(D) makes conforming changes to this subdivision; or

(E)-(F) makes no changes to these paragraphs.

SECTION 2. Amends Section 42.03, Penal Code, by adding Subsection (g) to authorize the actor to be prosecuted under this section or the other law, but not both, if conduct that constitutes an offense under this section also constitutes an offense under any other law.

SECTION 3. Amends Section 71.02(a), Penal Code, as follows:

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

(1)-(17) makes no changes to these subdivisions;

(18) makes a nonsubstantive change to this subdivision;

(19) any offense punishable under Section 42.03(d) or (e);

(20) redesignates existing Paragraph (19) as Paragraph (20); or

(21) any offense under Section 545.420, Transportation Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2023.