

BILL ANALYSIS

Senate Research Center
79R8537 PEP-D

H.B. 2275
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Criminal Justice
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Chapter 704, Transportation Code, aims to provide a solution for the recidivism of driving while intoxicated (DWI). This provision allows prosecutors to seize and forfeit a repeat offender's vehicle after the third DWI conviction. This law is infrequently prosecuted because it is poorly drafted, cumbersome, and ineffective. Under H.B. 2275, Chapter 704, Transportation Code, will be reformed and made part of Chapter 59, Code of Criminal Procedure, to aid police and prosecutors in fighting DWI recidivism.

Under the Transportation Code, prosecutors must file various motions and attend numerous hearings before a vehicle may be seized; however, these requirements do not protect a defendant's due process rights. On the other hand, Chapter 59, Code of Criminal Procedure, gives police the authority to seize a vehicle at the scene, but the offender is provided the opportunity to reclaim the offender's vehicle. In addition, Chapter 59, Code of Criminal Procedure, is used in a wide body of current case law and is a tried and tested method for conducting asset forfeiture proceedings.

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. Reenacts and amends Article 59.01(2), Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, to redefine "contraband."

SECTION 2. Repealer: Chapter 704 (Forfeiture of Certain Motor Vehicles), Transportation Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.