

By: Perry

S.B. No. 1125

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the disposition of certain controlled substance  
3 property and plants seized by or forfeited to a law enforcement  
4 agency.

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

6 SECTION 1. The heading to Section 481.152, Health and  
7 Safety Code, is amended to read as follows:

8 Sec. 481.152. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY  
9 DESTRUCTION OR OTHER DISPOSITION OF CONTROLLED SUBSTANCE PLANTS.

10 SECTION 2. Section 481.152(d), Health and Safety Code, is  
11 amended to read as follows:

12 (d) If a controlled substance plant is seized and forfeited  
13 under this section, a court may order the disposition of the plant  
14 under Section 481.159, or the department or a peace officer may  
15 summarily destroy the property under the rules of the department or  
16 dispose of the property in lieu of destruction as provided by  
17 Section 481.161.

18 SECTION 3. The heading to Section 481.153, Health and  
19 Safety Code, is amended to read as follows:

20 Sec. 481.153. SEIZURE, SUMMARY FORFEITURE, AND SUMMARY  
21 DESTRUCTION OR OTHER DISPOSITION OF CONTROLLED SUBSTANCE PROPERTY.

22 SECTION 4. Section 481.153(b), Health and Safety Code, is  
23 amended to read as follows:

24 (b) If an item of controlled substance property is seized

1 and forfeited under this section, a court may order the disposition  
2 of the property under Section 481.159, or the department or a peace  
3 officer may summarily destroy the property under the rules of the  
4 department or dispose of the property in lieu of destruction as  
5 provided by Section 481.161.

6 SECTION 5. Section 481.159(i), Health and Safety Code, is  
7 amended to read as follows:

8 (i) If a controlled substance property or plant seized under  
9 this chapter was forfeited to an agency for the purpose of  
10 destruction or disposition under Section 481.161 in lieu of  
11 destruction or for any purpose other than investigation, the  
12 property or plant may not be used in an investigation unless a  
13 district court orders disposition under this section and permits  
14 the use of the property or plant in the investigation.

15 SECTION 6. The heading to Section 481.160, Health and  
16 Safety Code, is amended to read as follows:

17 Sec. 481.160. DISPOSITION [~~DESTRUCTION~~] OF EXCESS  
18 QUANTITIES.

19 SECTION 7. Sections 481.160(a) and (c), Health and Safety  
20 Code, are amended to read as follows:

21 (a) If a controlled substance property or plant is forfeited  
22 under this code or under Chapter 59, Code of Criminal Procedure, the  
23 law enforcement agency that seized the property or plant or to which  
24 the property or plant is forfeited may summarily destroy the  
25 property or plant without a court order, or otherwise dispose of the  
26 property or plant in lieu of destruction in accordance with Section  
27 481.161, before the disposition of a case arising out of the

1 forfeiture if the agency ensures that:

2 (1) at least five random and representative samples  
3 are taken from the total amount of the property or plant and a  
4 sufficient quantity is preserved to provide for discovery by  
5 parties entitled to discovery;

6 (2) photographs are taken that reasonably depict the  
7 total amount of the property or plant; and

8 (3) the gross weight or liquid measure of the property  
9 or plant is determined, either by actually weighing or measuring  
10 the property or plant or by estimating its weight or measurement  
11 after making dimensional measurements of the total amount seized.

12 (c) A representative sample, photograph, or record made  
13 under this section is admissible in civil or criminal proceedings  
14 in the same manner and to the same extent as if the total quantity of  
15 the suspected controlled substance property or plant was offered in  
16 evidence, regardless of whether the remainder of the property or  
17 plant has been destroyed or otherwise disposed of. An inference or  
18 presumption of spoliation does not apply to a property or plant  
19 destroyed or otherwise disposed of under this section.

20 SECTION 8. Subchapter E, Chapter 481, Health and Safety  
21 Code, is amended by adding Section 481.161 to read as follows:

22 Sec. 481.161. DISPOSITION OF CONTROLLED SUBSTANCE PROPERTY  
23 OR PLANT IN LIEU OF DESTRUCTION. (a) In this section, "crime  
24 laboratory" has the meaning assigned by Article 38.35, Code of  
25 Criminal Procedure.

26 (b) Controlled substance property or plants subject to  
27 summary destruction by a law enforcement agency or ordered

1 destroyed by a court may be disposed of in accordance with this  
2 section.

3 (c) A law enforcement agency may transfer the controlled  
4 substance property or plants to a crime laboratory to be used for  
5 the purposes of laboratory research, testing results validation,  
6 and training of analysts.

7 (d) The crime laboratory to which the controlled substance  
8 property or plants are transferred under Subsection (c) shall  
9 destroy or otherwise properly dispose of any unused quantities of  
10 the controlled substance property or plants.

11 (e) This section does not apply to evidence described by  
12 Section [481.160](#)(d).

13 (f) The director may adopt rules to implement this section.

14 SECTION 9. The change in law made by this Act applies to the  
15 disposition of evidence on or after the effective date of this Act,  
16 regardless of whether the evidence was seized or forfeited before,  
17 on, or after that date.

18 SECTION 10. This Act takes effect September 1, 2021.