

AN ACT

relating to the disposition of certain contraband.

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

SECTION 1. Articles 18.18(f) and (g), Code of Criminal Procedure, are amended to read as follows:

(f) If a person timely appears to show cause why the property or proceeds should not be destroyed or forfeited, the magistrate shall conduct a hearing on the issue and determine the nature of property or proceeds and the person's interest therein. Unless the person proves by a preponderance of the evidence that the property or proceeds is not gambling equipment, altered gambling equipment, gambling paraphernalia, gambling device, gambling proceeds, prohibited weapon, obscene device or material, criminal instrument, or dog-fighting equipment and that he is entitled to possession, the magistrate shall dispose of the property or proceeds in accordance with Paragraph (a) of this article.

(g) For purposes of this article:

(1) "criminal instrument" has the meaning defined in the Penal Code;

(2) "gambling device or equipment, altered gambling equipment or gambling paraphernalia" has the meaning defined in the Penal Code;

(3) "prohibited weapon" has the meaning defined in the Penal Code; ~~and~~

(4) "dog-fighting equipment" means:

(A) equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen;

(B) equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog;

(C) equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or

(D) a dog trained, being trained, or intended to be used to fight with another dog; and

(5) [-(6)-] "obscene device [or material]" and "obscene" have the meanings assigned by Section 43.21, Penal Code
~~[means a device or material introduced into evidence and thereafter found obscene by virtue of a final judgment after all appellate remedies have been exhausted].~~

SECTION 2. This Act takes effect September 1, 2003. The change in law made by this Act applies only to the disposition of an obscene device or material seized on or after September 1, 2003. The disposition of an obscene device or material seized before September 1, 2003, is covered by the law in effect when the device or material was seized, and the former law is preserved for that purpose.

President of the Senate

Speaker of the House

I certify that H.B. No. 559 was passed by the House on May 8, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 559 was passed by the Senate on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor