

1-1 By: Brown of Kaufman (Senate Sponsor - Deuell) H.B. No. 559
1-2 (In the Senate - Received from the House May 9, 2003;
1-3 May 13, 2003, read first time and referred to Committee on Criminal
1-4 Justice; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the disposition of certain contraband.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Articles 18.18(f) and (g), Code of Criminal
1-11 Procedure, are amended to read as follows:

1-12 (f) If a person timely appears to show cause why the
1-13 property or proceeds should not be destroyed or forfeited, the
1-14 magistrate shall conduct a hearing on the issue and determine the
1-15 nature of property or proceeds and the person's interest therein.
1-16 Unless the person proves by a preponderance of the evidence that the
1-17 property or proceeds is not gambling equipment, altered gambling
1-18 equipment, gambling paraphernalia, gambling device, gambling
1-19 proceeds, prohibited weapon, obscene device or material, criminal
1-20 instrument, or dog-fighting equipment and that he is entitled to
1-21 possession, the magistrate shall dispose of the property or
1-22 proceeds in accordance with Paragraph (a) of this article.

1-23 (g) For purposes of this article:

1-24 (1) "criminal instrument" has the meaning defined in
1-25 the Penal Code;

1-26 (2) "gambling device or equipment, altered gambling
1-27 equipment or gambling paraphernalia" has the meaning defined in the
1-28 Penal Code;

1-29 (3) "prohibited weapon" has the meaning defined in the
1-30 Penal Code; ~~and~~

1-31 (4) "dog-fighting equipment" means:
1-32 (A) equipment used for training or handling a
1-33 fighting dog, including a harness, treadmill, cage, decoy, pen,
1-34 house for keeping a fighting dog, feeding apparatus, or training
1-35 pen;

1-36 (B) equipment used for transporting a fighting
1-37 dog, including any automobile, or other vehicle, and its
1-38 appurtenances which are intended to be used as a vehicle for
1-39 transporting a fighting dog;

1-40 (C) equipment used to promote or advertise an
1-41 exhibition of dog fighting, including a printing press or similar
1-42 equipment, paper, ink, or photography equipment; or

1-43 (D) a dog trained, being trained, or intended to
1-44 be used to fight with another dog; and

1-45 (5) ~~[-(6)-]~~ "obscene device ~~[or material]~~" and
1-46 "obscene" have the meanings assigned by Section 43.21, Penal Code
1-47 ~~[means a device or material introduced into evidence and thereafter~~
1-48 ~~found obscene by virtue of a final judgment after all appellate~~
1-49 ~~remedies have been exhausted].~~

1-50 SECTION 2. This Act takes effect September 1, 2003. The
1-51 change in law made by this Act applies only to the disposition of an
1-52 obscene device or material seized on or after September 1, 2003.
1-53 The disposition of an obscene device or material seized before
1-54 September 1, 2003, is covered by the law in effect when the device
1-55 or material was seized, and the former law is preserved for that
1-56 purpose.

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