

By: Phillips

H.B. No. 2903

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the circumstances under which contraband is not subject  
3 to forfeiture.

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

5 SECTION 1. Article 59.02(c), Code of Criminal Procedure, is  
6 amended to read as follows:

7 (c) An owner or interest holder's interest in property may  
8 not be forfeited under this chapter if the owner or interest holder  
9 proves by a preponderance of the evidence that the owner or interest  
10 holder:

11 (1) acquired and perfected the interest[+  
12 [~~(1)~~] before or during the act or omission giving rise  
13 to forfeiture or, if the property is real property, [~~he~~] acquired an  
14 ownership interest, security interest, or lien interest before a  
15 lis pendens notice was filed under Article 59.04(g) of this code,  
16 and:

17 (A) did not know and [~~or~~] should not reasonably  
18 have known of the act or omission giving rise to the forfeiture or  
19 that it was likely to occur at or before the time of that act or  
20 omission [~~acquiring and perfecting the interest or, if the property~~  
21 ~~is real property, at or before the time of acquiring the ownership~~  
22 ~~interest, security interest, or lien interest~~]; or

23 (B) on acquiring information to the effect that  
24 the act or omission occurred or was likely to occur, contacted a law

1 enforcement agency to file a report; or

2 (2) acquired and perfected the interest after the act  
3 or omission giving rise to the forfeiture, but before the seizure of  
4 the property, and only if the owner or interest holder:

5 (A) was, at the time that the interest in the  
6 property was acquired, an owner or interest holder for value; and

7 (B) was without reasonable cause to believe that  
8 the property was contraband and did not purposefully avoid learning  
9 that the property was contraband.

10 SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2003.