

By: Keffer of Eastland

H.B. No. 3470

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the type of action for forfeiture the state may bring  
3 and the items subject to forfeiture under Chapter 115, Natural  
4 Resources Code.

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

6 SECTION 1. The heading to Subchapter C, Chapter 115,  
7 Natural Resources Code, is amended to read as follows:

8 SUBCHAPTER C. FORFEITURE OF UNLAWFUL OIL, UNLAWFUL [~~OR~~]  
9 PRODUCT, OR PROCEEDS FROM UNLAWFUL OIL OR PETROLEUM PRODUCT

10 SECTION 2. Sections 115.031 and 115.032, Natural Resources  
11 Code, are amended to read as follows:

12 Sec. 115.031. FORFEITURE AUTHORIZED. Unlawful oil, [~~and~~]  
13 unlawful petroleum products, or proceeds from the sale of unlawful  
14 oil or unlawful petroleum products, regardless of the date of  
15 production, [~~or~~] manufacture, or sale, are declared to be a  
16 nuisance and shall be forfeited to this state as provided by this  
17 subchapter.

18 Sec. 115.032. REPORT TO ATTORNEY GENERAL. On the discovery  
19 of unlawful oil, [~~or~~] an unlawful petroleum product, or proceeds  
20 from the sale of unlawful oil or an unlawful petroleum product, a  
21 member of the commission, an agent or employee of the commission, or  
22 a peace officer shall immediately file with the attorney general a  
23 report that describes the unlawful oil, [~~or~~] unlawful petroleum  
24 product, or proceeds from the sale of unlawful oil or an unlawful

1 petroleum product. The report must state the ownership, party in  
2 possession, amount, location, and classification of the oil or  
3 petroleum product or the ownership, party in possession, amount,  
4 and location of proceeds from the sale of unlawful oil or an  
5 unlawful petroleum product.

6 SECTION 3. The heading to Section 115.033, Natural  
7 Resources Code, is amended to read as follows:

8 Sec. 115.033. FORFEITURE SUIT [~~ACTION IN REM~~].

9 SECTION 4. Section 115.033(a), Natural Resources Code, is  
10 amended to read as follows:

11 (a) If the attorney general is advised by any source,  
12 including the sources listed in Section 115.032, of the presence of  
13 unlawful oil, [~~or~~] an unlawful petroleum product, or unlawful  
14 proceeds from the sale of unlawful oil or an unlawful petroleum  
15 product, the attorney general shall bring a forfeiture suit [~~an~~  
16 ~~action in rem~~] in the name of the state in Travis County or in the  
17 county in which the oil, [~~or~~] petroleum product, or proceeds are  
18 [is] located against the unlawful oil, unlawful [~~or~~] petroleum  
19 product, or unlawful proceeds from the sale of unlawful oil or an  
20 unlawful petroleum product and against each person who owns,  
21 claims, or is in possession of the oil, [~~or~~] petroleum product, or  
22 proceeds.

23 SECTION 5. Subchapter C, Chapter 115, Natural Resources  
24 Code, is amended by adding Section 115.035 to read as follows:

25 Sec. 115.035. FORFEITURE OF PROCEEDS. (a) Articles  
26 59.08(a) and 59.12, Code of Criminal Procedure, apply to the  
27 pretrial disposition of proceeds in the form of money or property

1 consisting of a depository account.

2 (b) If on the trial of the action the proceeds in  
3 controversy are found to be unlawful, the court shall render  
4 judgment forfeiting the proceeds to this state.

5 SECTION 6. (a) This Act takes effect September 1, 2003.

6 (b) The changes in law made by Sections 115.031, 115.032,  
7 and 115.033, Natural Resources Code, as amended by this Act, and  
8 Section 115.035, Natural Resources Code, as added by this Act,  
9 apply only to an offense committed on or after September 1, 2003.  
10 For purposes of this section, an offense is committed before  
11 September 1, 2003, if any element of the offense occurs before that  
12 date. An offense committed before September 1, 2003, is covered by  
13 the law in effect when the offense was committed, and the former law  
14 is continued in effect for that purpose.