

By: Hartnett

H.B. No. 3528

A BILL TO BE ENTITLED

AN ACT

relating to civil actions for public nuisances.

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

SECTION 1. Section 125.001(a), Civil Practice and Remedies Code, is amended by adding new subsections (6) and (7):

(5) public lewdness or indecent exposure in violation of the Penal Code; or

(6) obscene activity in violation of Sections 43.24, 43.25, 43.251, or 43.26 of the Penal Code.

SECTION 2. Subsection (c), Section 125.002, Civil Practice and Remedies Code, is amended to read as follows:

(c) The bond must:

(1) be payable to the state at the county seat of the county in which the nuisance exists;

(2) be in the penal sum of \$10,000;

~~[(3) have sufficient sureties approved by the court,]~~

and

(3) [(4)] be conditioned that the property will not be used or permitted to be used for the following purposes:

(A) prostitution or gambling in violation of the Penal Code; [or]

(B) organized criminal activity as a member of a combination as described by Section 71.02, Penal Code;

(C) [for] the delivery, possession, manufacture,

1 or use of a controlled substance in violation of Chapter 481, Health  
2 and Safety Code;

3 (D) public lewdness or indecent exposure in  
4 violation of the Penal Code; or

5 (E) obscene activity in violation of Sections  
6 43.24, 43.25, 43.251, or 43.26 of the Penal Code.

7 SECTION 3. Subsection (d), Section 125.003, Civil Practice  
8 and Remedies Code, is amended to read as follows:

9 (d) In an action brought under this chapter, the court may  
10 award a prevailing party reasonable attorney's fees and  
11 investigative costs, in addition to costs. In determining the  
12 amount of attorney's fees and investigative costs, the court shall  
13 consider:

14 (1) the time and labor involved, including the time  
15 and expense of travel to investigate;

16 (2) the novelty and difficulty of the questions;

17 (3) the expertise, reputation, and ability of the  
18 attorney; and

19 (4) any other factor considered relevant by the court.

20 SECTION 4. Section 125.021, Civil Practice and Remedies  
21 Code, is amended by adding new subsections (11) and (12):

22 (11) public lewdness or indecent exposure in violation  
23 of the Penal Code; and

24 (12) obscene activity in violation of Sections 43.24,  
25 Section 43.25, Section 43.251, or 43.26 of the Penal Code.

26 SECTION 6. Section 125.041, Civil Practice and Remedies  
27 Code, is amended by adding new subsections (10) and (11):

1           (10) public lewdness or indecent exposure in violation  
2 of the Penal Code; and

3           (11) obscene activity in violation of Sections 43.24,  
4 43.25, 43.251, or 43.26 of the Penal Code.

5           SECTION 5. This Act takes effect September 1, 2003, and  
6 applies only to a cause of action that accrues on or after that  
7 date. An action that accrued before the effective date of this Act  
8 is governed by the law applicable to the action immediately before  
9 the effective date of this Act, and that law is continued in effect  
10 for that purpose.