

By: Dutton

H.B. No. 436

A BILL TO BE ENTITLED

AN ACT

relating to criminal and civil penalties for committing certain offenses involving prostitution.

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

SECTION 1. Section 43.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a state jail felony [~~Class A misdemeanor~~].

SECTION 2. Article 59.01(2), Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; [~~or~~]

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) a misdemeanor under Section 43.02(a)(2), Penal Code, except that for the purpose of this

1 subparagraph only, the property that constitutes contraband is a  
2 motor vehicle used in the commission of the offense;

3 (B) used or intended to be used in the commission  
4 of:

5 (i) any felony under Chapter 481, Health  
6 and Safety Code (Texas Controlled Substances Act);

7 (ii) any felony under Chapter 483, Health  
8 and Safety Code;

9 (iii) a felony under Chapter 153, Finance  
10 Code;

11 (iv) any felony under Chapter 34, Penal  
12 Code;

13 (v) a Class A misdemeanor under Subchapter  
14 B, Chapter 365, Health and Safety Code, if the defendant has been  
15 previously convicted twice of an offense under that subchapter;

16 (vi) any felony under Chapter 152, Finance  
17 Code; ~~or~~

18 (vii) any felony under Chapter 31, 32, or  
19 37, Penal Code, that involves the state Medicaid program, or any  
20 felony under Chapter 36, Human Resources Code; or

21 (viii) [~~(vii)~~] a Class B misdemeanor under  
22 Section 35.58, Business & Commerce Code;

23 (C) the proceeds gained from the commission of a  
24 felony listed in Paragraph (A) or (B) of this subdivision, a  
25 misdemeanor listed in Paragraph (B)(viii) [~~(B)(vii)~~] of this  
26 subdivision, or a crime of violence; or

27 (D) acquired with proceeds gained from the

1 commission of a felony listed in Paragraph (A) or (B) of this  
2 subdivision, a misdemeanor listed in Paragraph (B)(viii)  
3 [~~(B)(vii)~~] of this subdivision, or a crime of violence.

4 SECTION 3. The change in law made by Section 1 of this Act  
5 applies only to an offense committed on or after the effective date  
6 of this Act. An offense committed before the effective date of  
7 this Act is covered by the law in effect when the offense was  
8 committed, and the former law is continued in effect for that  
9 purpose. For purposes of this section, an offense is committed  
10 before the effective date of this Act if any element of the offense  
11 occurs before that date.

12 SECTION 4. The change in law made by Section 2 of this Act  
13 applies only to the forfeiture of contraband used in the commission  
14 of an offense under Section 43.02(a)(2), Penal Code, committed on  
15 or after the effective date of this Act. Forfeiture of contraband  
16 used in the commission of an offense under Section 43.02(a)(2),  
17 Penal Code, committed before the effective date of this Act is  
18 covered by the law in effect when the offense was committed, and the  
19 former law is continued in effect for that purpose. For purposes of  
20 this section, an offense is committed before the effective date of  
21 this Act if any element of the offense occurs before that date.

22 SECTION 5. This Act takes effect September 1, 2005.