

AN ACT

relating to the forfeiture of contraband used to facilitate or intended to be used to facilitate the commission of certain criminal offenses.

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

SECTION 1. Article 59.01(1), Code of Criminal Procedure, is amended to read as follows:

(1) "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(v) [~~(2)(B)(iv)~~] of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vii) of this article, the term includes the attorney general.

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,

1 including real, personal, tangible, or intangible, that is:

2 (A) used in the commission of:

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

5 (ii) any felony under Section 15.031(b),
6 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32,
7 33, 33A, or 35, Penal Code; or

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

10 (B) used or intended to be used in the commission
11 of:

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

14 (ii) any felony under Chapter 483, Health
15 and Safety Code;

16 (iii) a felony under Chapter 153, Finance
17 Code;

18 (iv) any felony under Chapter 34, Penal
19 Code;

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

23 (vi) any felony under Chapter 152, Finance
24 Code; ~~or~~

25 (vii) any felony under Chapter 31, 32, or
26 37, Penal Code, that involves the state Medicaid program, or any
27 felony under Chapter 36, Human Resources Code; or

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

3 (C) the proceeds gained from the commission of a
4 felony listed in Paragraph (A) or (B) of this subdivision, a
5 misdemeanor listed in Paragraph (B)(viii) [~~(B)(vii)~~] of this
6 subdivision, or a crime of violence; ~~[or]~~

7 (D) acquired with proceeds gained from the
8 commission of a felony listed in Paragraph (A) or (B) of this
9 subdivision, a misdemeanor listed in Paragraph (B)(viii)
10 [~~(B)(vii)~~] of this subdivision, or a crime of violence; or

11 (E) used to facilitate or intended to be used to
12 facilitate the commission of a felony under Section 15.031 or
13 43.25, Penal Code.

14 SECTION 3. The change in law made by this Act in adding
15 Article 59.01(2)(E), Code of Criminal Procedure, applies only to
16 the forfeiture of contraband used to facilitate or intended to be
17 used to facilitate the commission of an offense under Section
18 15.031 or 43.25, Penal Code, committed on or after the effective
19 date of this Act. Forfeiture of contraband used to facilitate or
20 intended to be used to facilitate the commission of an offense under
21 Section 15.031 or 43.25, Penal Code, committed before the effective
22 date of this Act is covered by the law in effect when the offense was
23 committed, and the former law is continued in effect for that
24 purpose.

25 SECTION 4. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 840 was passed by the House on March 21, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 840 on May 27, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 840 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor