

1-1 By: Riddle, et al. (Senate Sponsor - Williams) H.B. No. 840
1-2 (In the Senate - Received from the House March 22, 2005;
1-3 March 30, 2005, read first time and referred to Committee on
1-4 Criminal Justice; May 16, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 16, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 840 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the forfeiture of contraband used to facilitate or
1-11 intended to be used to facilitate the commission of certain
1-12 criminal offenses.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 59.01(1), Code of Criminal Procedure, is
1-15 amended to read as follows:

1-16 (1) "Attorney representing the state" means the
1-17 prosecutor with felony jurisdiction in the county in which a
1-18 forfeiture proceeding is held under this chapter or, in a
1-19 proceeding for forfeiture of contraband as defined under
1-20 Subdivision (2)(B)(v) [~~(2)(B)(iv)~~] of this article, the city
1-21 attorney of a municipality if the property is seized in that
1-22 municipality by a peace officer employed by that municipality and
1-23 the governing body of the municipality has approved procedures for
1-24 the city attorney acting in a forfeiture proceeding. In a
1-25 proceeding for forfeiture of contraband as defined under
1-26 Subdivision (2)(B)(vii) of this article, the term includes the
1-27 attorney general.

1-28 SECTION 2. Article 59.01(2), Code of Criminal Procedure, as
1-29 amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and
1-30 Section 3, Chapter 649, Acts of the 78th Legislature, Regular
1-31 Session, 2003, is reenacted and amended to read as follows:

1-32 (2) "Contraband" means property of any nature,
1-33 including real, personal, tangible, or intangible, that is:

1-34 (A) used in the commission of:

1-35 (i) any first or second degree felony under
1-36 the Penal Code;

1-37 (ii) any felony under Section 15.031(b),
1-38 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32,
1-39 33, 33A, or 35, Penal Code; or

1-40 (iii) any felony under The Securities Act
1-41 (Article 581-1 et seq., Vernon's Texas Civil Statutes);

1-42 (B) used or intended to be used in the commission
1-43 of:

1-44 (i) any felony under Chapter 481, Health
1-45 and Safety Code (Texas Controlled Substances Act);

1-46 (ii) any felony under Chapter 483, Health
1-47 and Safety Code;

1-48 (iii) a felony under Chapter 153, Finance
1-49 Code;

1-50 (iv) any felony under Chapter 34, Penal
1-51 Code;

1-52 (v) a Class A misdemeanor under Subchapter
1-53 B, Chapter 365, Health and Safety Code, if the defendant has been
1-54 previously convicted twice of an offense under that subchapter;

1-55 (vi) any felony under Chapter 152, Finance
1-56 Code; [~~or~~]

1-57 (vii) any felony under Chapter 31, 32, or
1-58 37, Penal Code, that involves the state Medicaid program, or any
1-59 felony under Chapter 36, Human Resources Code; or

1-60 (viii) [~~(vii)~~] a Class B misdemeanor under
1-61 Section 35.58, Business & Commerce Code;

1-62 (C) the proceeds gained from the commission of a
1-63 felony listed in Paragraph (A) or (B) of this subdivision, a

2-1 misdemeanor listed in Paragraph (B)(viii) [~~(B)(vii)~~] of this
2-2 subdivision, or a crime of violence; ~~or~~

2-3 (D) acquired with proceeds gained from the
2-4 commission of a felony listed in Paragraph (A) or (B) of this
2-5 subdivision, a misdemeanor listed in Paragraph (B)(viii)
2-6 [~~(B)(vii)~~] of this subdivision, or a crime of violence; or

2-7 (E) used to facilitate or intended to be used to
2-8 facilitate the commission of a felony under Section 15.031 or
2-9 43.25, Penal Code.

2-10 SECTION 3. The change in law made by this Act in adding
2-11 Article 59.01(2)(E), Code of Criminal Procedure, applies only to
2-12 the forfeiture of contraband used to facilitate or intended to be
2-13 used to facilitate the commission of an offense under Section
2-14 15.031 or 43.25, Penal Code, committed on or after the effective
2-15 date of this Act. Forfeiture of contraband used to facilitate or
2-16 intended to be used to facilitate the commission of an offense under
2-17 Section 15.031 or 43.25, Penal Code, committed before the effective
2-18 date of this Act is covered by the law in effect when the offense was
2-19 committed, and the former law is continued in effect for that
2-20 purpose.

2-21 SECTION 4. This Act takes effect September 1, 2005.

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