

By: Van Arsdale

H.B. No. 3260

A BILL TO BE ENTITLED

AN ACT

relating to the penalties for certain gambling offenses and to the forfeiture of certain gambling devices, equipment, and paraphernalia.

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

SECTION 1. Section 47.03(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. Section 47.04(c), Penal Code, is amended to read as follows:

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

SECTION 3. Section 47.06(e), Penal Code, is amended to read as follows:

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

SECTION 4. Article 18.18(a), Code of Criminal Procedure, is amended to read as follows:

(a) Not later than the 30th day after the date of [~~Following~~] the final conviction of a person for possession of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia, the court entering the judgment of conviction shall order that the device, equipment, or paraphernalia

1 be destroyed or forfeited to the state. Following the final  
2 conviction of a person for an offense involving a criminal  
3 instrument, [~~for an offense involving~~] an obscene device or  
4 material, or [~~for an offense involving~~] a scanning device or  
5 re-encoder, the court entering the judgment of conviction shall  
6 order that the [~~machine, device, gambling equipment or gambling~~  
7 ~~paraphernalia,~~] instrument, obscene device or material, or  
8 scanning device or re-encoder be destroyed or forfeited to the  
9 state. Not later than the 30th day after the final conviction of a  
10 person for an offense involving a prohibited weapon, the court  
11 entering the judgment of conviction on its own motion, on the motion  
12 of the prosecuting attorney in the case, or on the motion of the law  
13 enforcement agency initiating the complaint on notice to the  
14 prosecuting attorney in the case if the prosecutor fails to move for  
15 the order shall order that the prohibited weapon be destroyed or  
16 forfeited to the law enforcement agency that initiated the  
17 complaint. If the court fails to enter the order within the time  
18 required by this subsection, any magistrate in the county in which  
19 the offense occurred may enter the order. Following the final  
20 conviction of a person for an offense involving dog fighting, the  
21 court entering the judgment of conviction shall order that any  
22 dog-fighting equipment be destroyed or forfeited to the state.  
23 Destruction of dogs, if necessary, must be carried out by a  
24 veterinarian licensed in this state or, if one is not available, by  
25 trained personnel of a humane society or an animal shelter. If  
26 forfeited, the court shall order the contraband delivered to the  
27 state, any political subdivision of the state, or to any state

1 institution or agency. If gambling proceeds were seized, the court  
2 shall order them forfeited to the state and shall transmit them to  
3 the grand jury of the county in which they were seized for use in  
4 investigating alleged violations of the Penal Code, or to the  
5 state, any political subdivision of the state, or to any state  
6 institution or agency. If the court orders a gambling device or  
7 equipment, altered gambling equipment, or gambling paraphernalia  
8 to be forfeited to the state, the court shall notify the Texas  
9 Building and Procurement Commission of the forfeiture and shall  
10 deliver the device, equipment, or paraphernalia to the commission.  
11 The commission may dispose of the property in accordance with  
12 applicable law and may sell the device, equipment, or paraphernalia  
13 to a person in another state who is authorized by law to possess the  
14 device, equipment, or paraphernalia in that state. If the  
15 commission sells a gambling device or equipment, altered gambling  
16 equipment, or gambling paraphernalia, the commission shall  
17 transmit 50 percent of the net proceeds from the sale to the law  
18 enforcement agency that seized the device, equipment, or  
19 paraphernalia, and the remainder of the net proceeds shall be  
20 deposited to the credit of the general revenue fund.

21 SECTION 5. The changes in law made by this Act apply only to  
22 an offense committed on or after the effective date of this Act. An  
23 offense committed before the effective date of this Act is covered  
24 by the law in effect when the offense was committed, and the former  
25 law is continued in effect for that purpose. For purposes of this  
26 section, an offense was committed before the effective date of this  
27 Act if any element of the offense was committed before that date.

1           SECTION 6.   This Act takes effect September 1, 2005.