

By: Seliger

S.B. No. 397

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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),
20.05, 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);

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

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

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

1 (iii) a felony under Chapter 153, Finance
2 Code;

3 (iv) any felony under Chapter 34, Penal
4 Code;

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

8 (vi) any felony under Chapter 152, Finance
9 Code; ~~or~~

10 (vii) any felony under Chapter 31, 32, or
11 37, Penal Code, that involves the state Medicaid program, or any
12 felony under Chapter 36, Human Resources Code; or

13 (viii) a Class B misdemeanor under Section
14 35.58, Business & Commerce Code;

15 (C) the proceeds gained from the commission of a
16 felony listed in Paragraph (A) or (B) of this subdivision, a
17 misdemeanor listed in Paragraph (B)(vii) of this subdivision, or a
18 crime of violence; or

19 (D) acquired with proceeds gained from the
20 commission of a felony listed in Paragraph (A) or (B) of this
21 subdivision, a misdemeanor listed in Paragraph (B)(vii) of this
22 subdivision, or a crime of violence.

23 SECTION 2. The change in law made by this Act applies only
24 to the forfeiture of contraband used in the commission of an offense
25 under Section 20.05, Penal Code, committed on or after the
26 effective date of this Act. Forfeiture of contraband used in the
27 commission of an offense under Section 20.05, Penal Code, committed

1 before the effective date of this Act is covered by the law in
2 effect when the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this section,
4 an offense is committed before the effective date of this Act if any
5 element of the offense occurs before that date.

6 SECTION 3. This Act takes effect September 1, 2005.