

BILL ANALYSIS

S.B. 722
By: Hegar
Law Enforcement
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Law enforcement agencies throughout Texas routinely arrest individuals for either possession or delivery of controlled substances. Current law makes provisions for an excess quantity of a forfeited controlled substance that has been analyzed in a manner prescribed by law to be summarily destroyed by the law enforcement agency that seized it, without a court order and before the disposition of a case. The interpretation of this law has been questioned. Clarification is needed to establish whether or not a court order is required to destroy excess controlled substances that have been forfeited.

S.B. 722 clarifies that a court order is not required to summarily forfeit or summarily destroy controlled substances in a manner prescribed by law.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority granted to the Director of the Department of Public Safety is expanded in Section 6 of this bill.

ANALYSIS

S.B. 722 amends Section 481.151, Health and Safety Code, by adding definitions for "summary destruction" and "summary forfeiture." to the code. The bill also authorizes peace officers to forfeit any controlled substance plants of an individual who occupies or controls land or premises on which the plants are growing, without necessity of any court action, if the individual fails to produce appropriate registration or appropriate proof that the individual is the holder of registration that shows that the individual is authorized by the Director of the Department of Public Safety to manufacture, distribute, analyze, or conduct research with a controlled substance.

Section 481.153 of the Health and Safety Code is amended to authorize that an item of controlled substance property seized and forfeited under Section 481, Health and Safety Code, may be destroyed by the Department of Public Safety, or by a peace officer, under the rules established by the Department of Public Safety without the necessity of a court order.

Section 481.154 of the Health and Safety Code is amended to authorize the Director of the Department of Public Safety to adopt rules concerning summary destruction of controlled substance property or plants.

The bill also makes conforming changes throughout the code.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.