

By: Hegar

S.B. No. 722

A BILL TO BE ENTITLED

AN ACT

1
2 relating to summary destruction or summary forfeiture of controlled
3 substance property or controlled substance plants.

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

5 SECTION 1. Section 481.151, Health and Safety Code, is
6 amended by adding Subdivisions (3) and (4) to read as follows:

7 (3) "Summary destruction" or "summarily destroy"
8 means destruction without the necessity of any court action, a
9 court order, or further proceedings.

10 (4) "Summary forfeiture" or "summarily forfeit" means
11 forfeiture without the necessity of any court action, a court
12 order, or further proceedings.

13 SECTION 2. The heading to Section 481.152, Health and
14 Safety Code, is amended to read as follows:

15 Sec. 481.152. SEIZURE, ~~[AND]~~ SUMMARY FORFEITURE, AND
16 SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PLANTS.

17 SECTION 3. Subsection (c), Section 481.152, Health and
18 Safety Code, is amended to read as follows:

19 (c) If a person who occupies or controls land or premises on
20 which the plants are growing fails on the demand of a peace officer
21 to produce an appropriate registration or proof that the person is
22 the holder of the registration, the officer may seize and summarily
23 forfeit the plants.

24 SECTION 4. The heading to Section 481.153, Health and

1 Safety Code, is amended to read as follows:

2 Sec. 481.153. SEIZURE, ~~[AND]~~ SUMMARY FORFEITURE, AND
3 SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PROPERTY.

4 SECTION 5. Subsection (b), Section 481.153, Health and
5 Safety Code, is amended to read as follows:

6 (b) If an item of controlled substance property is seized
7 and forfeited under this section, a court may order the disposition
8 of the property under Section 481.159, or the department or a peace
9 officer may summarily destroy the property under the rules of the
10 department.

11 SECTION 6. Subsection (a), Section 481.154, Health and
12 Safety Code, is amended to read as follows:

13 (a) The director may adopt reasonable rules and procedures,
14 not inconsistent with the provisions of this chapter, concerning:

15 (1) summary forfeiture and summary destruction of
16 controlled substance property or plants;

17 (2) establishment and operation of a secure storage
18 area;

19 (3) delegation by a law enforcement agency head of the
20 authority to access a secure storage area; and

21 (4) minimum tolerance for and the circumstances of
22 loss or destruction during an investigation.

23 SECTION 7. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2007.