

1-1 By: Hegar S.B. No. 722
1-2 (In the Senate - Filed February 16, 2007; March 6, 2007,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 26, 2007, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; April 26, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to summary destruction or summary forfeiture of controlled
1-9 substance property or controlled substance plants.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 481.151, Health and Safety Code, is
1-12 amended by adding Subdivisions (3) and (4) to read as follows:

1-13 (3) "Summary destruction" or "summarily destroy"
1-14 means destruction without the necessity of any court action, a
1-15 court order, or further proceedings.

1-16 (4) "Summary forfeiture" or "summarily forfeit" means
1-17 forfeiture without the necessity of any court action, a court
1-18 order, or further proceedings.

1-19 SECTION 2. The heading to Section 481.152, Health and
1-20 Safety Code, is amended to read as follows:

1-21 Sec. 481.152. SEIZURE, ~~[AND]~~ SUMMARY FORFEITURE, AND
1-22 SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PLANTS.

1-23 SECTION 3. Subsection (c), Section 481.152, Health and
1-24 Safety Code, is amended to read as follows:

1-25 (c) If a person who occupies or controls land or premises on
1-26 which the plants are growing fails on the demand of a peace officer
1-27 to produce an appropriate registration or proof that the person is
1-28 the holder of the registration, the officer may seize and summarily
1-29 forfeit the plants.

1-30 SECTION 4. The heading to Section 481.153, Health and
1-31 Safety Code, is amended to read as follows:

1-32 Sec. 481.153. SEIZURE, ~~[AND]~~ SUMMARY FORFEITURE, AND
1-33 SUMMARY DESTRUCTION OF CONTROLLED SUBSTANCE PROPERTY.

1-34 SECTION 5. Subsection (b), Section 481.153, Health and
1-35 Safety Code, is amended to read as follows:

1-36 (b) If an item of controlled substance property is seized
1-37 and forfeited under this section, a court may order the disposition
1-38 of the property under Section 481.159, or the department or a peace
1-39 officer may summarily destroy the property under the rules of the
1-40 department.

1-41 SECTION 6. Subsection (a), Section 481.154, Health and
1-42 Safety Code, is amended to read as follows:

1-43 (a) The director may adopt reasonable rules and procedures,
1-44 not inconsistent with the provisions of this chapter, concerning:

1-45 (1) summary forfeiture and summary destruction of
1-46 controlled substance property or plants;

1-47 (2) establishment and operation of a secure storage
1-48 area;

1-49 (3) delegation by a law enforcement agency head of the
1-50 authority to access a secure storage area; and

1-51 (4) minimum tolerance for and the circumstances of
1-52 loss or destruction during an investigation.

1-53 SECTION 7. This Act takes effect immediately if it receives
1-54 a vote of two-thirds of all the members elected to each house, as
1-55 provided by Section 39, Article III, Texas Constitution. If this
1-56 Act does not receive the vote necessary for immediate effect, this
1-57 Act takes effect September 1, 2007.

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