

By: Flynn

H.B. No. 74

A BILL TO BE ENTITLED

AN ACT

relating to the forfeiture of property related to certain gambling 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 Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, is 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;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

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

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

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

5 (iii) a felony under Chapter 153, Finance
6 Code;

7 (iv) any felony under Chapter 34, Penal
8 Code;

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

12 (vi) any felony under Chapter 152, Finance
13 Code;

14 (vii) any felony under Chapter 32, Human
15 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
16 involves the state Medicaid program;

17 (viii) a Class B misdemeanor under Chapter
18 522, Business & Commerce Code; ~~or~~

19 (ix) a Class A misdemeanor under Section
20 35.153, Business & Commerce Code; or

21 (x) a Class A misdemeanor under Chapter 47,
22 Penal Code;

23 (C) the proceeds gained from the commission of a
24 felony listed in Paragraph (A) or (B) of this subdivision, a
25 misdemeanor listed in Paragraph (B)(viii) or (x) of this
26 subdivision, or a crime of violence;

27 (D) acquired with proceeds gained from the

1 commission of a felony listed in Paragraph (A) or (B) of this
2 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of
3 this subdivision, or a crime of violence; or

4 (E) used to facilitate or intended to be used to
5 facilitate the commission of a felony under Section 15.031 or
6 43.25, Penal Code.

7 SECTION 2. Chapter 59, Code of Criminal Procedure, is
8 amended by adding Article 59.011 to read as follows:

9 Art. 59.011. If property described by Article
10 59.01(2)(B)(x) is subject to forfeiture under this chapter and
11 Article 18.18, the attorney representing the state may proceed
12 under either provision.

13 SECTION 3. The change in law made by this Act applies only
14 to the forfeiture of property used in the commission of an offense
15 committed on or after the effective date of this Act. Forfeiture of
16 property used in the commission of an offense committed before the
17 effective date of this Act is governed by the law in effect when the
18 offense was committed, and the former law is continued in effect for
19 that purpose. For purposes of this section, an offense was
20 committed before the effective date of this Act if any element of
21 the offense occurred before that date.

22 SECTION 4. This Act takes effect September 1, 2009.