

1-1 By: Carona S.B. No. 371
1-2 (In the Senate - Filed December 15, 2008; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 8, 2009, reported favorably by the
1-5 following vote: Yeas 8, Nays 0; April 8, 2009, sent to printer.)

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

1-8 relating to certain civil consequences of engaging in organized
1-9 crime.

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

1-11 SECTION 1. Subdivision (2), Article 59.01, Code of Criminal
1-12 Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73),
1-13 and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session,
1-14 2007, is amended to read as follows:

1-15 (2) "Contraband" means property of any nature,
1-16 including real, personal, tangible, or intangible, that is:

1-17 (A) used in the commission of:

1-18 (i) any first or second degree felony under
1-19 the Penal Code;

1-20 (ii) any felony under Section 15.031(b),
1-21 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,
1-22 31, 32, 33, 33A, or 35, Penal Code;

1-23 (iii) any felony under The Securities Act
1-24 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

1-25 (iv) any offense under Chapter 49, Penal
1-26 Code, that is punishable as a felony of the third degree or state
1-27 jail felony, if the defendant has been previously convicted three
1-28 times of an offense under that chapter;

1-29 (B) used or intended to be used in the commission
1-30 of:

1-31 (i) any felony under Chapter 481, Health
1-32 and Safety Code (Texas Controlled Substances Act);

1-33 (ii) any felony under Chapter 483, Health
1-34 and Safety Code;

1-35 (iii) a felony under Chapter 153, Finance
1-36 Code;

1-37 (iv) any felony under Chapter 34, Penal
1-38 Code;

1-39 (v) a Class A misdemeanor under Subchapter
1-40 B, Chapter 365, Health and Safety Code, if the defendant has been
1-41 previously convicted twice of an offense under that subchapter;

1-42 (vi) any felony under Chapter 152, Finance
1-43 Code;

1-44 (vii) any felony under Chapter 32, Human
1-45 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that
1-46 involves the state Medicaid program;

1-47 (viii) a Class B misdemeanor under Chapter
1-48 522, Business & Commerce Code; ~~or~~

1-49 (ix) a Class A misdemeanor under Section
1-50 35.153, Business & Commerce Code; or

1-51 (x) any offense under Chapter 71, Penal
1-52 Code;

1-53 (C) the proceeds gained from the commission of a
1-54 felony listed in Paragraph (A) or (B) of this subdivision, a
1-55 misdemeanor listed in Paragraph (B)(viii) or (x) of this
1-56 subdivision, or a crime of violence;

1-57 (D) acquired with proceeds gained from the
1-58 commission of a felony listed in Paragraph (A) or (B) of this
1-59 subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of
1-60 this subdivision, or a crime of violence; or

1-61 (E) used to facilitate or intended to be used to
1-62 facilitate the commission of a felony under Section 15.031 or
1-63 43.25, Penal Code.

1-64 SECTION 2. Chapter 59, Code of Criminal Procedure, is

2-1 amended by adding Article 59.011 to read as follows:

2-2 Art. 59.011. PROPERTY USED FOR ORGANIZED CRIMINAL ACTIVITY.
2-3 If property described by Article 59.01(2)(B)(x) is subject to
2-4 forfeiture under this chapter and Article 18.18, the attorney
2-5 representing the state may proceed under either provision.

2-6 SECTION 3. The change in law made by this Act applies only
2-7 to the forfeiture of property used in the commission of an offense
2-8 committed on or after the effective date of this Act. Forfeiture of
2-9 property used in the commission of an offense committed before the
2-10 effective date of this Act is governed by the law in effect when the
2-11 offense was committed, and the former law is continued in effect for
2-12 that purpose. For purposes of this section, an offense was
2-13 committed before the effective date of this Act if any element of
2-14 the offense occurred before that date.

2-15 SECTION 4. This Act takes effect September 1, 2009.

2-16

* * * * *