

By: Dale, Canales

H.B. No. 805

Substitute the following for H.B. No. 805:

By: Moody

C.S.H.B. No. 805

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of evidence in an asset forfeiture proceeding and the seizure and forfeiture of certain property.

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

SECTION 1. Article 59.02, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as otherwise provided by Subsection (a-1), property [~~Property~~] that is contraband is subject to seizure and forfeiture under this chapter.

(a-1) Property that is contraband is not subject to seizure and forfeiture under this chapter if:

(1) the property is not otherwise unlawful to possess;  
and

(2) the admissibility of the property as evidence would be prohibited under Article 38.23 in the prosecution of the underlying offense.

SECTION 2. Article 59.05, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) In a forfeiture proceeding under this chapter, the attorney representing the state may only present evidence the admissibility of which would not be prohibited under Article 38.23 in the prosecution of the underlying offense giving rise to the forfeiture. A determination that evidence is admissible for the

1 purpose of the forfeiture proceeding does not act as collateral  
2 estoppel on any issue in the prosecution of the underlying offense  
3 giving rise to the forfeiture.

4 (b-2) For purposes of evaluating the admissibility of  
5 evidence sought to be presented in the proceeding, a party to a  
6 forfeiture proceeding under this chapter may request a stay of that  
7 proceeding to allow the applicable determinations to be made in the  
8 prosecution of the underlying offense giving rise to the  
9 forfeiture. The court shall grant the request unless the court  
10 finds good cause to deny the request.

11 SECTION 3. The change in law made by this Act applies only  
12 to a forfeiture proceeding that begins on or after the effective  
13 date of this Act. A forfeiture proceeding that begins before the  
14 effective date of this Act is governed by the law in effect on the  
15 date the proceeding begins, and the former law is continued in  
16 effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2017.