

## CHAPTER 458

## H.B. No. 359

## AN ACT

relating to the possession of an antique device.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (c), Section 47.06, Penal Code, as added by Chapter 741, Act of the 65th Legislature, Regular Session, 1977, and Subsection (d), Section 47.06, Penal Code, are redesignated as Subsections (d) and (e) and are amended to read as follows:

(d) [(e)] It is a defense to prosecution under this section that the gambling device is 30 years old or older [was manufactured prior to 1940] and not used for gambling, gambling promotion, or keeping a gambling place under Sections 47.02, 47.03, and 47.04, respectively, of this code, and that the party possessing same:

(1) within 30 days after coming into possession of same or the effective date of the amendment, whichever last occurs, furnished the following information to the sheriff of the county wherein such device is to be maintained:

(A) the name and address of the party possessing same;

(B) the name of the manufacturer, date of manufacture, and serial number of the device, if available;[,] and

(2) within 30 days of the transfer of such device advises the sheriff of the county to whom the information provided for in item (1) above was furnished of the name and address of the transferee.

(e) [(d)] An offense under this section is a felony of the third degree.

SECTION 2. (a) Except as provided by Subsection (c) of this section, the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) Except as provided by Subsection (c) of this section, an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) In a criminal action pending on or commenced on or after the effective date of this Act, for an offense committed before the effective date of this Act, the defendant may raise as a defense to prosecution that the gambling device was 30 years old or older at the time of the offense.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 8, 1987, by a non-record vote. Passed by the Senate on May 25, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Sept. 1, 1987