

RCW 82.26.230 Enforcement—Unlicensed distributors or retailers—Seizure and forfeiture of property. (1) Any tobacco products in the possession of a person selling tobacco products in this state acting as a distributor or retailer and who is not licensed as required under RCW 82.26.190, or a person who is selling tobacco products in violation of RCW 82.26.220(6), may be seized without a warrant by any agent of the department, agent of the board, or law enforcement officer of this state. Any tobacco products seized under this subsection shall be deemed forfeited.

(2) Any tobacco products in the possession of a person who is not a licensed distributor or retailer and who transports tobacco products for sale without having provided notice to the board required under RCW 82.26.140, or without invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of tobacco products being transported may be seized and are subject to forfeiture.

(3) All conveyances, including aircraft, vehicles, or vessels that are used, or intended for use to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of tobacco products under subsection (2) of this section, may be seized and are subject to forfeiture except:

(a) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the tobacco products transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner establishes to have been committed or omitted without his or her knowledge or consent; or

(c) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(4) Property subject to forfeiture under subsections (2) and (3) of this section may be seized by any agent of the department, the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, board, or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(5) This section shall not be construed to require the seizure of tobacco products if the department's agent, board's agent, or law enforcement officer reasonably believes that the tobacco products are possessed for personal consumption by the person in possession of the tobacco products.

(6) Any tobacco products seized by a law enforcement officer shall be turned over to the board as soon as practicable. [2005 c 180 s 20.]

Effective date—2005 c 180: See note following RCW 82.26.105.