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**SUBSTITUTE HOUSE BILL 2973**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representative McMorris)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to clarifying the role of the liquor control board  
2 to hear appeals relating to the seizure and forfeiture of cigarettes;  
3 amending RCW 82.24.135; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.24.135 and 1987 c 496 s 3 are each amended to read  
6 as follows:

7 In all cases of seizure of any property made subject to forfeiture  
8 under this chapter the department or the board shall proceed as  
9 follows:

10 (1) Forfeiture shall be deemed to have commenced by the seizure.  
11 Notice of seizure shall be given to the department or the board  
12 immediately if the seizure is made by someone other than an agent of  
13 the department or the board authorized to collect taxes.

14 (2) Upon notification or seizure by the department or the board or  
15 upon receipt of property subject to forfeiture under this chapter from  
16 any other person, the department or the board shall list and  
17 particularly describe the property seized in duplicate and have the  
18 property appraised by a qualified person not employed by the department  
19 or the board or acting as its agent. Listing and appraisal of the

1 property shall be properly attested by the department or the board and  
2 the appraiser, who shall be allowed a reasonable appraisal fee. No  
3 appraisal is required if the property seized is judged by the  
4 department or the board to be less than one hundred dollars in value.

5 (3) The department or the board shall cause notice to be served  
6 within five days following the seizure or notification to the  
7 department or the board of the seizure on the owner of the property  
8 seized, if known, on the person in charge thereof, and on any other  
9 person having any known right or interest therein, of the seizure and  
10 intended forfeiture of the seized property. The notice may be served  
11 by any method authorized by law or court rule including but not limited  
12 to service by mail. If service is by mail it shall be by both  
13 certified mail with return receipt requested and regular mail. Service  
14 by mail shall be deemed complete upon mailing within the five-day  
15 period following the seizure or notification of the seizure to the  
16 department or the board.

17 (4) If no person notifies the department or the board in writing of  
18 the person's claim of ownership or right to possession of the items  
19 seized within fifteen days of the date of the notice of seizure, the  
20 item seized shall be considered forfeited.

21 (5) If any person notifies the department or the board, in writing,  
22 of the person's claim of ownership or right to possession of the items  
23 seized within fifteen days of the date of the notice of seizure, the  
24 person or persons shall be afforded a reasonable opportunity to be  
25 heard as to the claim or right. The hearing shall be before the  
26 director or the director's designee or the board or the board's  
27 designee, except that any person asserting a claim or right may bring  
28 an action for return of the seized items in the superior court of the  
29 county in which such property was seized, if the aggregate value of the  
30 article or articles involved is more than five hundred dollars. A  
31 hearing (~~before the seizing agency~~) and any appeal therefrom shall be  
32 in accordance with chapter 34.05 RCW. The burden of proof by a  
33 preponderance of the evidence shall be upon the person claiming to be  
34 the lawful owner or the person claiming to have the lawful right to  
35 possession of the items seized. The department or the board shall  
36 promptly return the article or articles to the claimant upon a  
37 determination that the claimant is the present lawful owner or is  
38 lawfully entitled to possession thereof of the items seized.

1        NEW SECTION.    **Sec. 2.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    immediately.

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