
SENATE BILL 6517

State of Washington 57th Legislature

2002 Regular Session

By Senators Kohl-Welles, Stevens, Prentice, Swecker, Roach, Fairley, Hochstatter, Thibaudeau and Winsley

Read first time 01/21/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to civil forfeitures of property; amending RCW
2 69.50.505 and 9A.83.030; and reenacting and amending RCW 69.50.520.

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

4 **Sec. 1.** RCW 69.50.505 and 2001 c 168 s 1 are each amended to read
5 as follows:

6 (a) No judgment of forfeiture of property in a civil forfeiture
7 proceeding under this section by the state or any of its political
8 subdivisions shall be allowed or entered until and unless the owner of
9 the property is convicted of a criminal violation of this chapter or an
10 equivalent crime in another jurisdiction and the state demonstrates by
11 a preponderance of the evidence that the property was instrumental in
12 committing or facilitating the crime or the property is proceeds of
13 that crime. The value of the property forfeited under the provisions
14 of this subsection shall be substantially proportional to the specific
15 conduct for which the owner of the property has been convicted.

16 (b) In a civil forfeiture proceeding if a financial institution
17 claiming an interest in the property demonstrates that it holds an
18 interest, its interest shall not be subject to forfeiture. In a civil
19 forfeiture proceeding if a person claiming an interest in the property,

1 other than a financial institution or a defendant who has been charged
2 with or convicted of a crime involving that property, demonstrates that
3 the person has an interest in the property, that person's interest
4 shall not be subject to forfeiture unless:

5 (1) The forfeiting agency proves by a preponderance of the evidence
6 that the person took the property or the interest with the intent to
7 defeat the forfeiture; or

8 (2) A conviction under subsection (a) of this section is later
9 obtained against the person.

10 (c) Notwithstanding the provisions of subsection (a) of this
11 section, if, following notice as required in this section, no person
12 claims an interest in the seized property or if the property is
13 contraband, a judgment of forfeiture may be allowed and entered without
14 a criminal conviction as provided in subsection (i) of this section.

15 (d) Nothing in this section may be construed to affect the
16 temporary seizure of property for evidentiary, forfeiture, or
17 protective purposes, or to alter the power of the governor to remit
18 fines or forfeitures under Article III, section 11 of the Washington
19 Constitution.

20 (e) The following are subject to seizure and forfeiture ((and no
21 property right exists in them)) in accordance with subsections (a),
22 (b), (c), and (d) of this section:

23 (1) All controlled substances which have been manufactured,
24 distributed, dispensed, acquired, or possessed in violation of this
25 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as
26 defined in RCW 64.44.010, used or intended to be used in the
27 manufacture of controlled substances;

28 (2) All raw materials, products, and equipment of any kind which
29 are used, or intended for use, in manufacturing, compounding,
30 processing, delivering, importing, or exporting any controlled
31 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

32 (3) All property which is used, or intended for use, as a container
33 for property described in ((paragraphs)) (1) or (2) of this subsection;

34 (4) All conveyances, including aircraft, vehicles, or vessels,
35 which are used, or intended for use, in any manner to facilitate the
36 sale, delivery, or receipt of property described in ((paragraphs)) (1)
37 or (2) of this subsection, except that((+)

38 (i) No conveyance used by any person as a common carrier in the
39 transaction of business as a common carrier is subject to forfeiture

1 under this section unless it appears that the owner or other person in
2 charge of the conveyance is a consenting party or privy to a violation
3 of this chapter or chapter 69.41 or 69.52 RCW;

4 (ii) No conveyance is subject to forfeiture under this section by
5 reason of any act or omission established by the owner thereof to have
6 been committed or omitted without the owner's knowledge or consent;

7 (iii)) no conveyance is subject to forfeiture under this section
8 if used in the receipt of only an amount of marijuana for which
9 possession constitutes a misdemeanor under RCW 69.50.401(e)((;

10 (iv) A forfeiture of a conveyance encumbered by a bona fide
11 security interest is subject to the interest of the secured party if
12 the secured party neither had knowledge of nor consented to the act or
13 omission; and

14 (v) When the owner of a conveyance has been arrested under this
15 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
16 person is arrested may not be subject to forfeiture unless it is seized
17 or process is issued for its seizure within ten days of the owner's
18 arrest));

19 (5) All books, records, and research products and materials,
20 including formulas, microfilm, tapes, and data which are used, or
21 intended for use, in violation of this chapter or chapter 69.41 or
22 69.52 RCW;

23 (6) All drug paraphernalia;

24 (7) All moneys, negotiable instruments, securities, or other
25 tangible or intangible property of value furnished or intended to be
26 furnished by any person in exchange for a controlled substance in
27 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
28 or intangible personal property, proceeds, or assets acquired in whole
29 or in part with proceeds traceable to an exchange or series of
30 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
31 and all moneys, negotiable instruments, and securities used or intended
32 to be used to facilitate any violation of this chapter or chapter 69.41
33 or 69.52 RCW((.— A forfeiture of money, negotiable instruments,
34 securities, or other tangible or intangible property encumbered by a
35 bona fide security interest is subject to the interest of the secured
36 party if, at the time the security interest was created, the secured
37 party neither had knowledge of nor consented to the act or omission.
38 No personal property may be forfeited under this paragraph, to the
39 extent of the interest of an owner, by reason of any act or omission

1 ~~which that owner establishes was committed or omitted without the~~
2 ~~owner's knowledge or consent)); and~~

3 (8) All real property, including any right, title, and interest in
4 the whole of any lot or tract of land, and any appurtenances or
5 improvements which are being used with the knowledge of the owner for
6 the manufacturing, compounding, processing, delivery, importing, or
7 exporting of any controlled substance, or which have been acquired in
8 whole or in part with proceeds traceable to an exchange or series of
9 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
10 if such activity is not less than a class C felony and a substantial
11 nexus exists between the commercial production or sale of the
12 controlled substance and the real property. However:

13 ~~(i) ((No property may be forfeited pursuant to this subsection, to~~
14 ~~the extent of the interest of an owner, by reason of any act or~~
15 ~~omission committed or omitted without the owner's knowledge or consent;~~

16 ~~(ii)))~~ The bona fide gift of a controlled substance, legend drug,
17 or imitation controlled substance shall not result in the forfeiture of
18 real property;

19 ~~((iii)))~~ (ii) The possession of marijuana shall not result in the
20 forfeiture of real property unless the marijuana is possessed for
21 commercial purposes, the amount possessed is five or more plants or one
22 pound or more of marijuana, and a substantial nexus exists between the
23 possession of marijuana and the real property. In such a case, the
24 intent of the offender shall be determined by the preponderance of the
25 evidence, including the offender's prior criminal history, the amount
26 of marijuana possessed by the offender, the sophistication of the
27 activity or equipment used by the offender, and other evidence which
28 demonstrates the offender's intent to engage in commercial activity;
29 and

30 ~~((iv)))~~ (iii) The unlawful sale of marijuana or a legend drug
31 shall not result in the forfeiture of real property unless the sale was
32 forty grams or more in the case of marijuana or one hundred dollars or
33 more in the case of a legend drug, and a substantial nexus exists
34 between the unlawful sale and the real property(~~and~~

35 ~~(v) A forfeiture of real property encumbered by a bona fide~~
36 ~~security interest is subject to the interest of the secured party if~~
37 ~~the secured party, at the time the security interest was created,~~
38 ~~neither had knowledge of nor consented to the act or omission)).~~

1 (~~(b)~~) (f) Real or personal property subject to forfeiture under
2 this chapter may be seized by any board inspector or law enforcement
3 officer of this state upon process issued by any superior court having
4 jurisdiction over the property. Seizure of real property shall include
5 the filing of a lis pendens by the seizing agency. Real property
6 seized under this section shall not be transferred or otherwise
7 conveyed (~~until ninety days after seizure or~~) until a judgment of
8 forfeiture is entered(~~(, whichever is later:— PROVIDED, That)~~).
9 However, real property seized under this section may be transferred or
10 conveyed to any person or entity who acquires title by foreclosure or
11 deed in lieu of foreclosure of a security interest.

12 The board or law enforcement agency is not liable for damages for
13 loss of or injury to the seized personal or real property unless the
14 damage could have been avoided by the exercise of such care in regard
15 to the personal or real property as a reasonably careful person would
16 exercise under like circumstances.

17 (g) Seizure of personal property without process may be made if:

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

20 (2) The property subject to seizure has been the subject of a prior
21 judgment in favor of the state in a criminal injunction or forfeiture
22 proceeding based upon this chapter;

23 (3) A board inspector or law enforcement officer has probable cause
24 to believe that the property is directly or indirectly dangerous to
25 health or safety; or

26 (4) The board inspector or law enforcement officer has probable
27 cause to believe that the property was used or is intended to be used
28 in violation of this chapter.

29 (~~(e)~~) (h) In the event of seizure pursuant to subsection (~~(b)~~)
30 (f) or (g) of this section, proceedings for forfeiture shall be deemed
31 commenced by the seizure. The law enforcement agency under whose
32 authority the seizure was made shall cause notice to be served within
33 fifteen days following the seizure on the owner of the property seized
34 and the person in charge thereof and any person having any known right
35 or interest therein, including any community property interest, of the
36 seizure and intended forfeiture of the seized property. Service of
37 notice of seizure of real property shall be made according to the rules
38 of civil procedure. However, the state may not obtain a default
39 judgment with respect to real property against a party who is served by

1 substituted service absent an affidavit stating that a good faith
2 effort has been made to ascertain if the defaulted party is
3 incarcerated within the state, and that there is no present basis to
4 believe that the party is incarcerated within the state. Notice of
5 seizure in the case of property subject to a security interest that has
6 been perfected by filing a financing statement in accordance with
7 chapter 62A.9A RCW, or a certificate of title, shall be made by service
8 upon the secured party or the secured party's assignee at the address
9 shown on the financing statement or the certificate of title. The
10 notice of seizure in other cases may be served by any method authorized
11 by law or court rule including but not limited to service by certified
12 mail with return receipt requested. Service by mail shall be deemed
13 complete upon mailing within the fifteen day period following the
14 seizure.

15 ~~((d))~~ (i) If no person notifies the seizing law enforcement
16 agency in writing of the person's claim of ownership or right to
17 possession of items specified in subsection ~~((a))~~ (e)(4), ~~((a))~~(7),
18 or ~~((a))~~(8) of this section within forty-five days of the seizure in
19 the case of personal property and ninety days in the case of real
20 property, the item seized shall be deemed forfeited. The community
21 property interest in real property of a person whose spouse committed
22 a violation giving rise to seizure of the real property may not be
23 forfeited if the person did not participate in the violation.

24 ~~((e))~~ (j) If any person notifies the seizing law enforcement
25 agency in writing of the person's claim of ownership or right to
26 possession of items specified in subsection ~~((a))~~ (e)(2), ~~((a))~~(3),
27 ~~((a))~~(4), ~~((a))~~(5), ~~((a))~~(6), ~~((a))~~(7), or ~~((a))~~(8) of this
28 section within forty-five days of the seizure in the case of personal
29 property and ninety days in the case of real property, the person or
30 persons shall be afforded a reasonable opportunity to be heard as to
31 the claim or right. The hearing shall be before the chief law
32 enforcement officer of the seizing agency or the chief law enforcement
33 officer's designee, except where the seizing agency is a state agency
34 as defined in RCW 34.12.020(4), the hearing shall be before the chief
35 law enforcement officer of the seizing agency or an administrative law
36 judge appointed under chapter 34.12 RCW, except that any person
37 asserting a claim or right may remove the matter to a court of
38 competent jurisdiction. Removal of any matter involving personal
39 property may only be accomplished according to the rules of civil

1 procedure. The person seeking removal of the matter must serve process
2 against the state, county, political subdivision, or municipality that
3 operates the seizing agency, and any other party of interest, in
4 accordance with RCW 4.28.080 or 4.92.020, within forty-five days after
5 the person seeking removal has notified the seizing law enforcement
6 agency of the person's claim of ownership or right to possession. The
7 court to which the matter is to be removed shall be the district court
8 when the aggregate value of personal property is within the
9 jurisdictional limit set forth in RCW 3.66.020. A hearing before the
10 seizing agency and any appeal therefrom shall be under Title 34 RCW.
11 In all cases, the burden of proof is upon the law enforcement agency to
12 establish, by a preponderance of the evidence, that the property is
13 subject to forfeiture.

14 If the seizing agency fails to show by a preponderance of the
15 evidence that the seized property is subject to forfeiture, the seizing
16 law enforcement agency shall promptly return the article or articles to
17 the claimant ((upon a determination by the administrative law judge or
18 court that the claimant is the present lawful owner or is lawfully
19 entitled to possession thereof of items specified in subsection (a)(2),
20 (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) of this section)).

21 ~~((f))~~ (k) In any proceeding to forfeit property under this title,
22 where the claimant substantially prevails, the claimant is entitled to
23 reasonable attorneys' fees reasonably incurred by the claimant. In
24 addition, in a court hearing between two or more claimants to the
25 article or articles involved, the prevailing party is entitled to a
26 judgment for costs and reasonable attorneys' fees.

27 ~~((g))~~ (l) When property is forfeited under this chapter the board
28 or seizing law enforcement agency ~~((may))~~ shall:

29 ~~(1) ((Retain it for official use or upon application by any law~~
30 ~~enforcement agency of this state release such property to such agency~~
31 ~~for the exclusive use of enforcing the provisions of this chapter;~~

32 ~~(2))~~ (2) Sell that which is not required to be destroyed by law and
33 which is not harmful to the public;

34 ~~((3) Request the appropriate sheriff or director of public safety~~
35 ~~to take custody of the property and remove it for disposition in~~
36 ~~accordance with law; or~~

37 ~~(4) Forward it to the drug enforcement administration for~~
38 ~~disposition.~~

1 ~~(h)(1) When property is forfeited, the seizing agency shall~~) (2)
2 Keep a record indicating the identity of the prior owner, if known, a
3 description of the property, the disposition of the property, the value
4 of the property at the time of seizure, and the amount of proceeds
5 realized from disposition of the property~~((-))~~;

6 ~~((2) Each seizing agency shall~~) (3) Retain records of forfeited
7 property for at least seven years~~((-))~~;

8 ~~((3) Each seizing agency shall~~) (4) File a report including a
9 copy of the records of forfeited property with the state treasurer each
10 calendar quarter. ~~((4))~~ The quarterly report need not include a
11 record of forfeited property that is still being held for use as
12 evidence during the investigation or prosecution of a case or during
13 the appeal from a conviction;

14 (5) Destroy any property that is harmful to the public, required to
15 be destroyed by law, or otherwise not appropriate for sale to the
16 public;

17 (6) Report the nature and disposition of all property and proceeds
18 seized for forfeiture or forfeited to the state auditor. The state
19 auditor shall annually perform a statewide audit of seizures and
20 forfeitures as authorized under this section. The audit shall be
21 performed in conjunction with routine audits of local governments as
22 provided under RCW 43.09.260. The state auditor shall annually publish
23 a statewide report on the amount of federal and state seizure and
24 forfeiture funds received and expended in the violence reduction and
25 drug enforcement account in total and by each local government for the
26 current year and the previous three years. The report shall also
27 disclose the beginning and ending balances in the violence reduction
28 and drug enforcement account attributable to seizures and forfeitures.
29 The state auditor's report shall include a report on statewide
30 compliance with this section and RCW 69.50.520, including an
31 identification of best practices, instances of noncompliance, and
32 recommendations to the legislature.

33 ~~((i))~~ (m)(1) By January 31st of each year, each seizing agency
34 shall remit all of the net proceeds of any property forfeited during
35 the preceding calendar year to the state treasurer ((an amount equal to
36 ten percent of the net proceeds of any property forfeited during the
37 preceding calendar year)). Money remitted shall be deposited in the
38 ~~((violence reduction and drug enforcement account under RCW 69.50.520))~~

1 common school construction fund as required by Article IX, section 3 of
2 the Constitution of the state of Washington.

3 (2) The net proceeds of forfeited property is the value of the
4 forfeitable interest in the property after deducting: (i) The cost of
5 satisfying any bona fide security interest to which the property is
6 subject at the time of seizure; and in the case of sold property, after
7 deducting the cost of sale, including reasonable fees or commissions
8 paid to independent selling agents, and the cost of any valid
9 landlord's claim for damages under subsection ((+o+)) (s) of this
10 section; (ii) any foreclosed liens, security interest, and contracts in
11 the order of their priority; and (iii) actual and reasonable expenses
12 related to the costs of the forfeiture proceeding, including attorneys'
13 fees, storage, maintenance, management, and disposition of the property
14 incurred in connection with the sale of any forfeited property in an
15 amount not to exceed twenty-five percent of the total proceeds in any
16 single forfeiture.

17 (3) The value of sold forfeited property is the sale price. The
18 value of retained forfeited property is the fair market value of the
19 property at the time of seizure, determined when possible by reference
20 to an applicable commonly used index, such as the index used by the
21 department of licensing for valuation of motor vehicles. A seizing
22 agency may use, but need not use, an independent qualified appraiser to
23 determine the value of retained property. If an appraiser is used, the
24 value of the property appraised is net of the cost of the appraisal.
25 The value of destroyed ~~((property and retained firearms or))~~ illegal
26 property is zero.

27 ~~((+j+)) (n) Forfeited property and net proceeds ((not required to~~
28 ~~be paid to the state treasurer shall be retained by the seizing law~~
29 ~~enforcement agency exclusively for the expansion and improvement of~~
30 ~~controlled substances related law enforcement activity. Money retained~~
31 ~~under this section may not be used to supplant preexisting funding~~
32 ~~sources)), including shared property or proceeds obtained from the~~
33 federal government, shall be disposed of or distributed according to
34 the following:

35 (1) Any sale of forfeited property shall be conducted in a
36 commercially reasonable manner. Property or proceeds forfeited under
37 this section shall be distributed or applied as required by subsection
38 (1) of this section.

1 (2) The state of Washington or any of its political subdivisions
2 shall take all necessary steps to obtain shared property or proceeds
3 from the United States department of justice resulting from a
4 forfeiture. Any property or proceeds received from the United States
5 department of justice by the state of Washington or any of its
6 political subdivisions shall be applied as provided in (1) of this
7 subsection.

8 (3) Neither the state of Washington, its political subdivisions,
9 nor any forfeiting agency shall transfer forfeiture proceedings to the
10 federal government unless a state court has affirmatively found that:

11 (i) The activity giving rise to the forfeiture is interstate in
12 nature and sufficiently complex to justify the transfer;

13 (ii) The seized property may only be forfeited under federal law;
14 or

15 (iii) Pursuing forfeiture under state law would unduly burden the
16 state forfeiting agencies.

17 ~~((k))~~ (o) Controlled substances listed in Schedule I, II, III,
18 IV, and V that are possessed, transferred, sold, or offered for sale in
19 violation of this chapter are contraband and shall be seized and
20 summarily forfeited to the state. Controlled substances listed in
21 Schedule I, II, III, IV, and V, which are seized or come into the
22 possession of the board, the owners of which are unknown, are
23 contraband and shall be summarily forfeited to the board.

24 ~~((l))~~ (p) Species of plants from which controlled substances in
25 Schedules I and II may be derived which have been planted or cultivated
26 in violation of this chapter, or of which the owners or cultivators are
27 unknown, or which are wild growths, may be seized and summarily
28 forfeited to the board.

29 ~~((m))~~ (q) The failure, upon demand by a board inspector or law
30 enforcement officer, of the person in occupancy or in control of land
31 or premises upon which the species of plants are growing or being
32 stored to produce an appropriate registration or proof that he or she
33 is the holder thereof constitutes authority for the seizure and
34 forfeiture of the plants.

35 ~~((n))~~ (r) Upon the entry of an order of forfeiture of real
36 property, the court shall forward a copy of the order to the assessor
37 of the county in which the property is located. Orders for the
38 forfeiture of real property shall be entered by the superior court,
39 subject to court rules. Such an order shall be filed by the seizing

1 agency in the county auditor's records in the county in which the real
2 property is located.

3 ~~((+e+))~~ (s) A landlord may assert a claim against proceeds from the
4 sale of assets ~~((seized and forfeited))~~ under subsection ~~((+g+)(2+))~~ (n)
5 of this section, only if:

6 (1) A law enforcement officer, while acting in his or her official
7 capacity, directly caused damage to the complaining landlord's property
8 while executing a search of a tenant's residence; and

9 (2) The landlord has applied any funds remaining in the tenant's
10 deposit, to which the landlord has a right under chapter 59.18 RCW, to
11 cover the damage directly caused by a law enforcement officer prior to
12 asserting a claim under the provisions of this section;

13 (i) Only if the funds applied under (2) of this subsection are
14 insufficient to satisfy the damage directly caused by a law enforcement
15 officer, may the landlord seek compensation for the damage by filing a
16 claim against the governmental entity under whose authority the law
17 enforcement agency operates within thirty days after the search;

18 (ii) Only if the governmental entity denies or fails to respond to
19 the landlord's claim within sixty days of the date of filing, may the
20 landlord collect damages under this subsection by filing within thirty
21 days of denial or the expiration of the sixty-day period, whichever
22 occurs first, a claim with the seizing law enforcement agency. The
23 seizing law enforcement agency must notify the landlord of the status
24 of the claim by the end of the thirty-day period. Nothing in this
25 section requires the claim to be paid by the end of the sixty-day or
26 thirty-day period.

27 (3) For any claim filed under (2) of this subsection, the law
28 enforcement agency shall pay the claim unless the agency provides
29 substantial proof that the landlord either:

30 (i) Knew or consented to actions of the tenant in violation of this
31 chapter or chapter 69.41 or 69.52 RCW; or

32 (ii) Failed to respond to a notification of the illegal activity,
33 provided by a law enforcement agency under RCW 59.18.075, within seven
34 days of receipt of notification of the illegal activity.

35 ~~((+p+))~~ (t) The landlord's claim for damages under subsection
36 ~~((+e+))~~ (s) of this section may not include a claim for loss of
37 business and is limited to:

38 (1) Damage to tangible property and clean-up costs;

1 (2) The lesser of the cost of repair or fair market value of the
2 damage directly caused by a law enforcement officer;

3 (3) The proceeds from the sale of the specific tenant's property
4 (~~seized and forfeited~~) under subsection (~~(g)(2)~~) (n) of this
5 section; and

6 (4) The proceeds available after the seizing law enforcement agency
7 satisfies any bona fide security interest in the tenant's property and
8 costs related to sale of the tenant's property as provided by
9 subsection (~~(i)(2)~~) (n) of this section.

10 (~~(q)~~) (u) Subsections (~~(o)~~) (s) and (~~(p)~~) (t) of this section
11 do not limit any other rights a landlord may have against a tenant to
12 collect for damages. However, if a law enforcement agency satisfies a
13 landlord's claim under subsection (~~(o)~~) (s) of this section, the
14 rights the landlord has against the tenant for damages directly caused
15 by a law enforcement officer under the terms of the landlord and
16 tenant's contract are subrogated to the law enforcement agency.

17 (v) For the purposes of this section:

18 (1) "Contraband" means personal property, articles, or things,
19 including but not limited to controlled substances or drug
20 paraphernalia and illegal firearms, that a person is prohibited by
21 Washington statute or local ordinance from producing, obtaining, or
22 possessing; and

23 (2) "Property" means any interest in anything of value, including
24 the whole of any lot or tract of land and tangible and intangible
25 personal property, including currency, instruments or securities or any
26 other kind of privilege, interest, claim, or right whether due or to
27 become due.

28 **Sec. 2.** RCW 9A.83.030 and 2001 c 168 s 2 are each amended to read
29 as follows:

30 (1) Proceeds traceable to or derived from specified unlawful
31 activity or a violation of RCW 9A.83.020 are subject to seizure and
32 forfeiture. The attorney general or county prosecuting attorney may
33 file a civil action for the forfeiture of proceeds. Unless otherwise
34 provided for under this section, no property rights exist in these
35 proceeds. All right, title, and interest in the proceeds shall vest in
36 the governmental entity of which the seizing law enforcement agency is
37 a part upon commission of the act or omission giving rise to forfeiture
38 under this section.

1 (2) Real or personal property subject to forfeiture under this
2 chapter may be seized by any law enforcement officer of this state upon
3 process issued by a superior court that has jurisdiction over the
4 property. Any agency seizing real property shall file a lis pendens
5 concerning the property. Real property seized under this section shall
6 not be transferred or otherwise conveyed until ninety days after
7 seizure or until a judgment of forfeiture is entered, whichever is
8 later. Real property seized under this section may be transferred or
9 conveyed to any person or entity who acquires title by foreclosure or
10 deed in lieu of foreclosure of a security interest. Seizure of
11 personal property without process may be made if:

12 (a) The seizure is incident to an arrest or a search under a search
13 warrant or an inspection under an administrative inspection warrant
14 issued pursuant to RCW 69.50.502; or

15 (b) The property subject to seizure has been the subject of a prior
16 judgment in favor of the state in a criminal injunction or forfeiture
17 proceeding based upon this chapter.

18 (3) A seizure under subsection (2) of this section commences
19 proceedings for forfeiture. The law enforcement agency under whose
20 authority the seizure was made shall cause notice of the seizure and
21 intended forfeiture of the seized proceeds to be served within fifteen
22 days after the seizure on the owner of the property seized and the
23 person in charge thereof and any person who has a known right or
24 interest therein, including a community property interest. Service of
25 notice of seizure of real property shall be made according to the rules
26 of civil procedure. However, the state may not obtain a default
27 judgment with respect to real property against a party who is served by
28 substituted service absent an affidavit stating that a good faith
29 effort has been made to ascertain if the defaulted party is
30 incarcerated within the state, and that there is no present basis to
31 believe that the party is incarcerated within the state. The notice of
32 seizure in other cases may be served by any method authorized by law or
33 court rule including but not limited to service by certified mail with
34 return receipt requested. Service by mail is complete upon mailing
35 within the fifteen-day period after the seizure.

36 (4) If no person notifies the seizing law enforcement agency in
37 writing of the person's claim of ownership or right to possession of
38 the property within forty-five days of the seizure in the case of
39 personal property and ninety days in the case of real property, the

1 property seized shall be deemed forfeited. The community property
2 interest in real property of a person whose spouse committed a
3 violation giving rise to seizure of the real property may not be
4 forfeited if the person did not participate in the violation.

5 (5) If a person notifies the seizing law enforcement agency in
6 writing of the person's claim of ownership or right to possession of
7 property within forty-five days of the seizure in the case of personal
8 property and ninety days in the case of real property, the person or
9 persons shall be afforded a reasonable opportunity to be heard as to
10 the claim or right. The provisions of RCW 69.50.505(~~(e)~~) (j) shall
11 apply to any such hearing. The seizing law enforcement agency shall
12 promptly return property to the claimant upon the direction of the
13 administrative law judge or court.

14 (6) Disposition of forfeited property shall be made in the manner
15 provided for in RCW 69.50.505 (~~(h)~~) (l) through (~~(j)~~) (n) and
16 (~~(n)~~) (r).

17 **Sec. 3.** RCW 69.50.520 and 2001 2nd sp.s. c 7 s 920 and 2001 c 168
18 s 3 are each reenacted and amended to read as follows:

19 The violence reduction and drug enforcement account is created in
20 the state treasury. All designated receipts from RCW 9.41.110(8),
21 66.24.210(4), 66.24.290(2), (~~(69.50.505(i)(1))~~) 82.08.150(5),
22 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989
23 shall be deposited into the account. Expenditures from the account may
24 be used only for funding services and programs under chapter 271, Laws
25 of 1989 and chapter 7, Laws of 1994 sp. sess., including state
26 incarceration costs. Funds from the account may also be appropriated
27 to reimburse local governments for costs associated with implementing
28 criminal justice legislation including chapter 338, Laws of 1997.
29 During the 2001-2003 biennium, funds from the account may also be used
30 for costs associated with providing grants to local governments in
31 accordance with chapter 338, Laws of 1997, the replacement of the
32 department of corrections' offender-based tracking system, maintenance
33 and operating costs of the Washington association of sheriffs and
34 police chiefs jail reporting system, and for multijurisdictional
35 narcotics task forces. After July 1, 2003, at least seven and one-half
36 percent of expenditures from the account shall be used for providing

1 grants to community networks under chapter 70.190 RCW by the family
2 policy council.

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