

HOUSE BILL REPORT

SSB 5160

As Reported by House Committee On:
Judiciary

Title: An act relating to service of notice from seizing law enforcement agencies.

Brief Description: Concerning service of notice from seizing law enforcement agencies.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin and Tom).

Brief History:

Committee Activity:

Judiciary: 3/25/09, 3/26/09 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Modifies notice provisions concerning challenges to the seizure of property made under the Uniform Controlled Substances Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

The Uniform Controlled Substances Act allows forfeiture of real and personal property used in drug-related offenses. When property is seized under the authority of the Uniform Controlled Substances Act, the seizing law enforcement agency must serve notice of the seizure on the owner of the property and on any person having any known right or interest in the property. This notice must be served within 15 days of the seizure of the property.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person asserting a claim of ownership or right to possession of the seized property must notify the seizing law enforcement agency of his or her claim within the time period prescribed by statute. If the seizing law enforcement agency does not receive any notice of claim of ownership or right to possession within 45 days of the seizure of personal property or 90 days of the seizure of real property, the property seized is deemed forfeited.

If a claim of ownership or right to possession is made within the required time period, the person asserting an ownership interest or right to possession will be afforded a reasonable opportunity to be heard.

Summary of Amended Bill:

A person asserting a claim of ownership or right to possession of personal property seized under the Uniform Controlled Substances Act must notify the seizing law enforcement agency of his or her ownership interest within 45 days of the service of notice from the seizing agency. In the case of a seizure of real property, the person asserting an ownership interest must notify the seizing law enforcement agency of his or her ownership interest within 90 days of the service of notice from the seizing agency.

The notice of claim must be served on the seizing law enforcement agency by any method authorized by law or court rule, including service by first-class mail. Service by mail is deemed complete upon mailing the notice of claim within the 45-day period following service of the notice of seizure in the case of personal property and within the 90-day period following service of the notice of seizure in the case of real property.

Amended Bill Compared to Original Bill:

The original bill allowed service of the notice of claim by mail within 45 days following service of the notice of seizure. The amended bill allows service of the notice of claim by mail within 45 days or 90 days following the notice of seizure depending on whether the property seized is personal or real property.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill changes the time line used when a person wants to notify a seizing law enforcement agency of an ownership interest in seized property. The current law allows a notice of claim of ownership or right to possession to be submitted to the seizing agency

within 45 days or 90 days of the seizure. The seizing agency has 15 days to notify the owners of the seizure. The notice of the seizure is often mailed on the fifteenth day, which shortens the time that a person has to assert an ownership interest. Some financial institutions have forfeited property because they had fewer than 30 days to process their notice of claim. The bill allows the 45-day period or 90-day period to start from the date of the service of notice of seizure. The bill requires a person asserting an ownership interest to serve notice on the seizing agency by any method authorized by law or court rule, including service by mail.

(Opposed) None.

Persons Testifying: Senator Kline, prime sponsor; Gary Gardner, United Financial Lobby; and Michael Hunbey, Washington Defenders Association and the Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.