

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1995

Chapter 168, Laws of 2001

(partial veto)

57th Legislature
2001 Regular Legislative Session

CIVIL FORFEITURES OF PROPERTY

EFFECTIVE DATE: 7/22/01

Passed by the House April 5, 2001
Yeas 96 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 12, 2001
Yeas 42 Nays 4

ROSA FRANKLIN
President of the Senate

Approved May 7, 2001, with the
exception of section 4, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1995** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED
May 7, 2001 - 1:08 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1995

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Dickerson, Cairnes, Grant, Dunn, Campbell, Kagi, Pearson and Wood)

Read first time 03/29/2001. Referred to Committee on .

1 AN ACT Relating to civil forfeitures of property; amending RCW
2 69.50.505, 9A.83.030, and 69.50.520; and creating a new section.

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

4 **Sec. 1.** RCW 69.50.505 and 1993 c 487 s 1 are each amended to read
5 as follows:

6 (a) The following are subject to seizure and forfeiture and no
7 property right exists in them:

8 (1) All controlled substances which have been manufactured,
9 distributed, dispensed, acquired, or possessed in violation of this
10 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as
11 defined in RCW 64.44.010, used or intended to be used in the
12 manufacture of controlled substances;

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

17 (3) All property which is used, or intended for use, as a container
18 for property described in paragraphs (1) or (2);

1 (4) All conveyances, including aircraft, vehicles, or vessels,
2 which are used, or intended for use, in any manner to facilitate the
3 sale, delivery, or receipt of property described in paragraphs (1) or
4 (2), except that:

5 (i) No conveyance used by any person as a common carrier in the
6 transaction of business as a common carrier is subject to forfeiture
7 under this section unless it appears that the owner or other person in
8 charge of the conveyance is a consenting party or privy to a violation
9 of this chapter or chapter 69.41 or 69.52 RCW;

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

13 (iii) No conveyance is subject to forfeiture under this section if
14 used in the receipt of only an amount of marijuana for which possession
15 constitutes a misdemeanor under RCW 69.50.401(e);

16 (iv) A forfeiture of a conveyance encumbered by a bona fide
17 security interest is subject to the interest of the secured party if
18 the secured party neither had knowledge of nor consented to the act or
19 omission; and

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

25 (5) All books, records, and research products and materials,
26 including formulas, microfilm, tapes, and data which are used, or
27 intended for use, in violation of this chapter or chapter 69.41 or
28 69.52 RCW;

29 (6) All drug paraphernalia;

30 (7) All moneys, negotiable instruments, securities, or other
31 tangible or intangible property of value furnished or intended to be
32 furnished by any person in exchange for a controlled substance in
33 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
34 or intangible personal property, proceeds, or assets acquired in whole
35 or in part with proceeds traceable to an exchange or series of
36 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
37 and all moneys, negotiable instruments, and securities used or intended
38 to be used to facilitate any violation of this chapter or chapter 69.41
39 or 69.52 RCW. A forfeiture of money, negotiable instruments,

1 securities, or other tangible or intangible property encumbered by a
2 bona fide security interest is subject to the interest of the secured
3 party if, at the time the security interest was created, the secured
4 party neither had knowledge of nor consented to the act or omission.
5 No personal property may be forfeited under this paragraph, to the
6 extent of the interest of an owner, by reason of any act or omission
7 which that owner establishes was committed or omitted without the
8 owner's knowledge or consent; and

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

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

22 (ii) The bona fide gift of a controlled substance, legend drug, or
23 imitation controlled substance shall not result in the forfeiture of
24 real property;

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

35 (iv) The unlawful sale of marijuana or a legend drug shall not
36 result in the forfeiture of real property unless the sale was forty
37 grams or more in the case of marijuana or one hundred dollars or more
38 in the case of a legend drug, and a substantial nexus exists between
39 the unlawful sale and the real property; and

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

5 (b) Real or personal property subject to forfeiture under this
6 chapter may be seized by any board inspector or law enforcement officer
7 of this state upon process issued by any superior court having
8 jurisdiction over the property. Seizure of real property shall include
9 the filing of a lis pendens by the seizing agency. Real property
10 seized under this section shall not be transferred or otherwise
11 conveyed until ninety days after seizure or until a judgment of
12 forfeiture is entered, whichever is later: PROVIDED, That real
13 property seized under this section may be transferred or conveyed to
14 any person or entity who acquires title by foreclosure or deed in lieu
15 of foreclosure of a security interest. Seizure of personal property
16 without process may be made if:

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

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

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

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

28 (c) In the event of seizure pursuant to subsection (b), proceedings
29 for forfeiture shall be deemed commenced by the seizure. The law
30 enforcement agency under whose authority the seizure was made shall
31 cause notice to be served within fifteen days following the seizure on
32 the owner of the property seized and the person in charge thereof and
33 any person having any known right or interest therein, including any
34 community property interest, of the seizure and intended forfeiture of
35 the seized property. Service of notice of seizure of real property
36 shall be made according to the rules of civil procedure. However, the
37 state may not obtain a default judgment with respect to real property
38 against a party who is served by substituted service absent an
39 affidavit stating that a good faith effort has been made to ascertain

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

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

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

1 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
2 five days after the person seeking removal has notified the seizing law
3 enforcement agency of the person's claim of ownership or right to
4 possession. The court to which the matter is to be removed shall be
5 the district court when the aggregate value of personal property is
6 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
7 before the seizing agency and any appeal therefrom shall be under Title
8 34 RCW. ~~((In a court hearing between two or more claimants to the
9 article or articles involved, the prevailing party shall be entitled to
10 a judgment for costs and reasonable attorney's fees. In cases
11 involving personal property, the burden of producing evidence shall be
12 upon the person claiming to be the lawful owner or the person claiming
13 to have the lawful right to possession of the property.))~~ In all cases
14 ~~((involving real property)), the burden of ((producing evidence shall
15 be))~~ proof is upon the law enforcement agency to establish, by a
16 preponderance of the evidence, that the property is subject to
17 forfeiture. ~~((The burden of proof that the seized real property is
18 subject to forfeiture shall be upon the law enforcement agency.))~~

19 The seizing law enforcement agency shall promptly return the
20 article or articles to the claimant upon a determination by the
21 administrative law judge or court that the claimant is the present
22 lawful owner or is lawfully entitled to possession thereof of items
23 specified in subsection (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7),
24 or (a)(8) of this section.

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

31 (g) When property is forfeited under this chapter the board or
32 seizing law enforcement agency may:

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

36 (2) Sell that which is not required to be destroyed by law and
37 which is not harmful to the public;

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

4 (4) Forward it to the drug enforcement administration for
5 disposition.

6 ~~((g))~~ (h)(1) When property is forfeited, the seizing agency shall
7 keep a record indicating the identity of the prior owner, if known, a
8 description of the property, the disposition of the property, the value
9 of the property at the time of seizure, and the amount of proceeds
10 realized from disposition of the property.

11 (2) Each seizing agency shall retain records of forfeited property
12 for at least seven years.

13 (3) Each seizing agency shall file a report including a copy of the
14 records of forfeited property with the state treasurer each calendar
15 quarter.

16 (4) The quarterly report need not include a record of forfeited
17 property that is still being held for use as evidence during the
18 investigation or prosecution of a case or during the appeal from a
19 conviction.

20 ~~((h))~~ (i)(1) By January 31st of each year, each seizing agency
21 shall remit to the state treasurer an amount equal to ten percent of
22 the net proceeds of any property forfeited during the preceding
23 calendar year. Money remitted shall be deposited in the violence
24 reduction and drug enforcement ~~((and education))~~ account under RCW
25 69.50.520.

26 (2) The net proceeds of forfeited property is the value of the
27 forfeitable interest in the property after deducting the cost of
28 satisfying any bona fide security interest to which the property is
29 subject at the time of seizure; and in the case of sold property, after
30 deducting the cost of sale, including reasonable fees or commissions
31 paid to independent selling agents, and the cost of any valid
32 landlord's claim for damages under subsection ~~((n))~~ (o) of this
33 section.

34 (3) The value of sold forfeited property is the sale price. The
35 value of retained forfeited property is the fair market value of the
36 property at the time of seizure, determined when possible by reference
37 to an applicable commonly used index, such as the index used by the
38 department of licensing for valuation of motor vehicles. A seizing
39 agency may use, but need not use, an independent qualified appraiser to

1 determine the value of retained property. If an appraiser is used, the
2 value of the property appraised is net of the cost of the appraisal.
3 The value of destroyed property and retained firearms or illegal
4 property is zero.

5 ~~((i))~~ (j) Forfeited property and net proceeds not required to be
6 paid to the state treasurer shall be retained by the seizing law
7 enforcement agency exclusively for the expansion and improvement of
8 controlled substances related law enforcement activity. Money retained
9 under this section may not be used to supplant preexisting funding
10 sources.

11 ~~((j))~~ (k) Controlled substances listed in Schedule I, II, III,
12 IV, and V that are possessed, transferred, sold, or offered for sale in
13 violation of this chapter are contraband and shall be seized and
14 summarily forfeited to the state. Controlled substances listed in
15 Schedule I, II, III, IV, and V, which are seized or come into the
16 possession of the board, the owners of which are unknown, are
17 contraband and shall be summarily forfeited to the board.

18 ~~((k))~~ (l) Species of plants from which controlled substances in
19 Schedules I and II may be derived which have been planted or cultivated
20 in violation of this chapter, or of which the owners or cultivators are
21 unknown, or which are wild growths, may be seized and summarily
22 forfeited to the board.

23 ~~((l))~~ (m) The failure, upon demand by a board inspector or law
24 enforcement officer, of the person in occupancy or in control of land
25 or premises upon which the species of plants are growing or being
26 stored to produce an appropriate registration or proof that he is the
27 holder thereof constitutes authority for the seizure and forfeiture of
28 the plants.

29 ~~((m))~~ (n) Upon the entry of an order of forfeiture of real
30 property, the court shall forward a copy of the order to the assessor
31 of the county in which the property is located. Orders for the
32 forfeiture of real property shall be entered by the superior court,
33 subject to court rules. Such an order shall be filed by the seizing
34 agency in the county auditor's records in the county in which the real
35 property is located.

36 ~~((n))~~ (o) A landlord may assert a claim against proceeds from the
37 sale of assets seized and forfeited under subsection ~~((f))~~ (g)(2) of
38 this section, only if:

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

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

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

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

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

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

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

30 ~~((+e+))~~ (p) The landlord's claim for damages under subsection
31 ~~((+n+))~~ (o) of this section may not include a claim for loss of
32 business and is limited to:

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

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

36 (3) The proceeds from the sale of the specific tenant's property
37 seized and forfeited under subsection ~~((+f+))~~ (g)(2) of this section;
38 and

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

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

12 **Sec. 2.** RCW 9A.83.030 and 1992 c 210 s 3 are each amended to read
13 as follows:

14 (1) Proceeds traceable to or derived from specified unlawful
15 activity or a violation of RCW 9A.83.020 are subject to seizure and
16 forfeiture. The attorney general or county prosecuting attorney may
17 file a civil action for the forfeiture of proceeds. Unless otherwise
18 provided for under this section, no property rights exist in these
19 proceeds. All right, title, and interest in the proceeds shall vest in
20 the governmental entity of which the seizing law enforcement agency is
21 a part upon commission of the act or omission giving rise to forfeiture
22 under this section.

23 (2) Real or personal property subject to forfeiture under this
24 chapter may be seized by any law enforcement officer of this state upon
25 process issued by a superior court that has jurisdiction over the
26 property. Any agency seizing real property shall file a lis pendens
27 concerning the property. Real property seized under this section shall
28 not be transferred or otherwise conveyed until ninety days after
29 seizure or until a judgment of forfeiture is entered, whichever is
30 later. Real property seized under this section may be transferred or
31 conveyed to any person or entity who acquires title by foreclosure or
32 deed in lieu of foreclosure of a security interest. Seizure of
33 personal property without process may be made if:

34 (a) The seizure is incident to an arrest or a search under a search
35 warrant or an inspection under an administrative inspection warrant
36 issued pursuant to RCW 69.50.502; or

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

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

22 (4) If no person notifies the seizing law enforcement agency in
23 writing of the person's claim of ownership or right to possession of
24 the property within forty-five days of the seizure in the case of
25 personal property and ninety days in the case of real property, the
26 property seized shall be deemed forfeited. The community property
27 interest in real property of a person whose spouse committed a
28 violation giving rise to seizure of the real property may not be
29 forfeited if the person did not participate in the violation.

30 (5) If a person notifies the seizing law enforcement agency in
31 writing of the person's claim of ownership or right to possession of
32 property within forty-five days of the seizure in the case of personal
33 property and ninety days in the case of real property, the person or
34 persons shall be afforded a reasonable opportunity to be heard as to
35 the claim or right. The provisions of RCW 69.50.505(e) shall apply to
36 any such hearing. The seizing law enforcement agency shall promptly
37 return property to the claimant upon the direction of the
38 administrative law judge or court.

1 (6) Disposition of forfeited property shall be made in the manner
2 provided for in RCW 69.50.505 (~~((g))~~) (h) through (~~((i))~~) (j) and
3 (~~((m))~~) (n).

4 **Sec. 3.** RCW 69.50.520 and 2000 2nd sp.s. c 1 s 917 are each
5 amended to read as follows:

6 The violence reduction and drug enforcement account is created in
7 the state treasury. All designated receipts from RCW 9.41.110(8),
8 66.24.210(4), 66.24.290(2), 69.50.505(~~((h))~~) (i)(1), 82.08.150(5),
9 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989
10 shall be deposited into the account. Expenditures from the account may
11 be used only for funding services and programs under chapter 271, Laws
12 of 1989 and chapter 7, Laws of 1994 sp. sess., including state
13 incarceration costs. Funds from the account may also be appropriated
14 to reimburse local governments for costs associated with implementing
15 criminal justice legislation including chapter 338, Laws of 1997.
16 During the 1999-2001 biennium, funds from the account may also be used
17 for costs associated with providing grants to local governments in
18 accordance with chapter 338, Laws of 1997, the design, sitework, and
19 construction of the special commitment center, the replacement of the
20 department of corrections' offender-based tracking system, and for
21 multijurisdictional narcotics task forces. After July 1, 2001, at
22 least seven and one-half percent of expenditures from the account shall
23 be used for providing grants to community networks under chapter 70.190
24 RCW by the family policy council.

25 ****NEW SECTION. Sec. 4. (1) The senate and house of representatives***
26 ***judiciary committees shall convene a workgroup to evaluate Washington***
27 ***civil forfeiture laws and practices. The efforts of the workgroup***
28 ***shall include: An evaluation of the enacted changes to the federal***
29 ***civil forfeiture act and how they compare to current Washington law; an***
30 ***analysis of whether a requirement for a criminal conviction before***
31 ***civil forfeiture would raise additional constitutional issues; a***
32 ***comprehensive review of every civil forfeiture case that took place in***
33 ***Washington state under state law during the year 2000; a discussion of***
34 ***recommendations and issues in the Washington civil forfeiture statutes,***
35 ***including issues upon which the workgroup can agree and those that***
36 ***remain in dispute; and any other civil forfeiture issues identified by***
37 ***the workgroup during its deliberations.***

1 (2) *The workgroup shall consist of sixteen members. Four members*
2 *shall be from the senate, two from each caucus to be appointed by the*
3 *president of the senate, and four members shall be from the house of*
4 *representatives, two from each caucus to be appointed by the co-*
5 *speakers of the house of representatives. The American civil liberties*
6 *union, the Washington association of sheriffs and police chiefs, the*
7 *Washington association of prosecuting attorneys, and the Washington*
8 *association of criminal defense lawyers may appoint two representatives*
9 *each to participate in the workgroup.*

10 (3) *The members of the legislature appointed to the workgroup shall*
11 *be paid by the legislature under chapter 44.04 RCW. Support staff for*
12 *the workgroup shall be provided by the senate committee services and*
13 *the office of program research.*

14 (4) *The workgroup shall submit its findings and recommendations to*
15 *the senate judiciary committee and house of representatives judiciary*
16 *committee not later than December 1, 2001. The workgroup shall*
17 *terminate on December 15, 2001.*

18 *Sec. 4 was vetoed. See message at end of chapter.

19 NEW SECTION. **Sec. 5.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

Passed the House April 5, 2001.

Passed the Senate April 12, 2001.

Approved by the Governor May 7, 2001, with the exception of certain
items that were vetoed.

Filed in Office of Secretary of State May 7, 2001.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 4,
3 Engrossed Substitute House Bill No. 1995 entitled:

4 "AN ACT Relating to civil forfeitures of property;"

5 Engrossed Substitute House Bill No. 1995 provides needed reform to
6 our civil forfeiture laws. This bill will provide greater protection
7 to citizens whose property is subject to seizure by law enforcement
8 agencies. Drug dealers should not be allowed to benefit from their
9 illegally gotten wealth, but we must not sacrifice citizens' rights in
10 our efforts to fight drug trafficking.

11 Section 4 of the bill establishes a workgroup of the Senate and
12 House Judiciary Committees, including legislative and non-legislative
13 members, to evaluate Washington's civil forfeiture laws and practices,
14 and report back to the legislative committees by December 1, 2001. I

1 believe such a workgroup will be very useful and can continue examining
2 the issues involved in the forfeiture laws. However, there is simply
3 no need to establish the workgroup in statute. I urge the committees
4 to use their inherent power to establish this workgroup, so that it can
5 perform its intended functions within the intended time period, without
6 enactment of a statute.

7 For these reasons, I have vetoed section 4 of Engrossed Substitute
8 House Bill No. 1995.

9 With the exception of section 4, Engrossed Substitute House Bill
10 No. 1995 is approved."