

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 2554** Session of  
1982

INTRODUCED BY CIVERA, SPITZ, MICOZZIE AND GANNON, JUNE 8, 1982

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 8, 1982

AN ACT

1 Amending the act of April 14, 1972 (P.L.233, No.64), entitled  
2 "An act relating to the manufacture, sale and possession of  
3 controlled substances, other drugs, devices and cosmetics;  
4 conferring powers on the courts and the secretary and  
5 Department of Health, and a newly created Pennsylvania Drug,  
6 Device and Cosmetic Board; establishing schedules of  
7 controlled substances; providing penalties; requiring  
8 registration of persons engaged in the drug trade and for the  
9 revocation or suspension of certain licenses and  
10 registrations; and repealing an act," providing for the  
11 disposition of certain forfeited property and amending the  
12 procedures relating to forfeiture.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 29, act of April 14, 1972 (P.L.233,  
16 No.64), known as "The Controlled Substance, Drug, Device and  
17 Cosmetic Act, is amended to read:

18 Section 29. Procedure With Respect to Seized Property  
19 Subject to Liens and Rights of Lienholders.--[(a) The person who  
20 seized said property shall notify the registered owner and  
21 lienholder, where possible, and shall publish notice in a  
22 newspaper of general circulation in the county or the city,

1 where seized, of any vehicle, vessel or aircraft confiscated  
2 informing interested persons of the seizure and right to file a  
3 claim protesting the confiscation of said vehicle, vessel or  
4 aircraft.

5 (b) Any lawful lienholder, or other person showing a legal  
6 right, title or interest in a vehicle, vessel or aircraft,  
7 confiscated pursuant to this subtitle may, within thirty days of  
8 publication of notice file a claim protesting such seizure with  
9 the court or with the person having jurisdiction thereof. When  
10 such a claim is filed, the court of common pleas of the county  
11 wherein the property was confiscated, shall proceed in rem to  
12 hear and determine the question of forfeiture.

13 (c) If the court determines any property is subject to  
14 forfeiture it shall also determine whether any lawful lienholder  
15 who has filed a timely claim and protest had knowledge of such  
16 intended unlawful use. If the court shall find such knowledge  
17 then the lienholder's right, title and interest to the property  
18 shall likewise be deemed forfeited. If the court does not find  
19 such knowledge and the property is otherwise subject to  
20 forfeiture, it shall be forfeited and the person having custody  
21 of such property shall either pay the outstanding indebtedness  
22 secured by such lawful lien and keep the property or deliver the  
23 property to the said lienholder.] (a) The proceedings for the  
24 forfeiture or condemnation of all property, the sale of which is  
25 provided for herein, shall be in rem, in which the Commonwealth  
26 shall be the plaintiff and the property the defendant. A  
27 petition shall be filed in the court of common pleas verified by  
28 oath or affirmation of any officer or citizen containing the  
29 following:

30 (i) A description of the property so seized.

1     (ii) A statement of the time and place where seized.

2     (iii) The owner, if known.

3     (iv) The person or persons in possession, if known.

4     (v) An allegation that same is subject to forfeiture  
5 pursuant to subsection (a) of section 28 and an averment of  
6 material facts upon which the forfeiture action is based.

7     (vi) A prayer for an order of forfeiture that the same be  
8 adjudged forfeited to the Commonwealth and condemned and be  
9 ordered sold according to law, unless cause be shown to the  
10 contrary.

11     (b) A copy of said petition shall be served personally or by  
12 certified mail on said owner or upon the person or persons in  
13 possession at the time of the seizure thereof. Said copy shall  
14 have endorsed thereon a notice as follows:

15             To the Claimant of within Described Property:

16             You are required to file an answer to this petition,  
17 setting forth your title in, and right to possession of, said  
18 property within thirty days from the service hereof, and you  
19 are also notified that if you fail to file said answer a  
20 decree of forfeiture and condemnation will be entered against  
21 said property.

22             Said notice shall be signed by the Attorney General, deputy  
23 attorney general, assistant attorney general, district attorney,  
24 deputy district attorney or assistant district attorney.

25     (c) If the owner of said property is unknown and there was  
26 no person in possession of said property when seized, notice of  
27 said petition shall be given by the Attorney General's office or  
28 the sheriff by an advertisement in the newspaper of general  
29 circulation published in the county where such property shall  
30 have been seized, once a week for three successive weeks. Said

1 notice shall contain a statement of the seizure of said property  
2 with a description thereof, the place and date of seizure, and  
3 shall direct any claimants thereof to file a claim therefor on  
4 or before a date given in said notice, which date shall not be  
5 less than thirty days from the date of the first publication.

6 (d) Upon the filing of any claim for said property, setting  
7 forth a right of possession thereof, the case shall be deemed at  
8 issue and a time be fixed for the hearing thereof.

9 (e) At the time of said hearing, if the Commonwealth or  
10 appropriate political subdivisions shall produce evidence that  
11 the property in question was unlawfully used or possessed, the  
12 burden shall be upon the claimant to show:

13 (i) That he is the owner of said property or the holder of a  
14 chattel mortgage or contract of conditional sale thereon.

15 (ii) That he lawfully acquired the same.

16 (iii) That it was not unlawfully used or possessed by him.

17 (iv) In the event that it shall appear that the property was  
18 unlawfully used or possessed by a person other than the  
19 claimant, then such claimant shall show that such unlawful use  
20 or possession was without his knowledge or consent.

21 (f) Any person claiming the ownership of, or right of  
22 possession to, or claiming to be the holder of a chattel  
23 mortgage or contract of conditional sale upon, any such  
24 property, the disposition of which is provided for herein may at  
25 any time prior to the sale thereof present his petition to the  
26 court alleging his lawful ownership thereof or right of  
27 possession thereto or his lien thereon or reservation of title  
28 thereto, and if, upon public hearing thereon, due notice of  
29 which having been given to the Attorney General or the district  
30 attorney, such claimant shall prove by competent evidence to the

1 satisfaction of the court that said property was lawfully  
2 acquired, possessed, and used by him or if, it appearing that  
3 the property was unlawfully used by a person other than the  
4 claimant, he shall prove that such unlawful use was without his  
5 knowledge or consent, then the court may order the same returned  
6 or delivered to said claimant; otherwise it shall be sold as  
7 hereinabove provided.

8       Section 2. This act shall take effect in 60 days.