

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 1970** Session of  
1981

INTRODUCED BY RASCO, FRAZIER, BURD, MARMION, POTT AND CESSAR,  
OCTOBER 14, 1981

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 14, 1981

AN ACT

1 Providing for the forfeiture of contraband; the disposition of  
2 the same; the establishment of a special municipal pension  
3 fund in the Department of Community Affairs; and providing  
4 for the disposition of the income from the fund.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known as and may be cited as the  
9 "Pennsylvania Contraband Forfeiture Act."

10 Section 2. Definitions.

11 As used in this act, "Contraband article" means:

12 (1) Any controlled substance as defined in the act of  
13 April 14, 1972 (P.L.233, No.64), known as "The Controlled  
14 Substance, Drug, Device and Cosmetic Act" or any substance  
15 device paraphernalia, or currency or other means of exchange,  
16 which has been, is being, or is intended to be used in  
17 violation of any provision of that act.

18 (2) Any gambling paraphernalia, lottery tickets, money

1 and currency used or intended to be used in the violation of  
2 the gambling laws of the Commonwealth.

3 (3) Any equipment, liquid or solid, which is being used  
4 or intended to be used in violation of the beverage or  
5 tobacco laws of the Commonwealth.

6 (4) Any motor fuel upon which the motor fuel tax has not  
7 been paid as required by law.

8 (5) Any personal property including, but not limited to,  
9 any item, object, tool, substance, device, weapon, machine,  
10 vehicle of any kind, money, securities, or currency, which  
11 has been or is actually employed as an instrumentality in the  
12 commission of, or in aiding or abetting the commission of,  
13 any felony.

14 Section 3. Unlawful to transport, conceal or possess

15 contraband articles; use of vessel, motor or  
16 aircraft.

17 It is unlawful:

18 (1) To transport, carry or convey any contraband article  
19 in, upon or by means of any vessel, motor vehicle or  
20 aircraft.

21 (2) To conceal or possess any contraband article in or  
22 upon any vessel, motor vehicle or aircraft.

23 (3) To use any vessel, motor vehicle or aircraft to  
24 facilitate the transportation, carriage, conveyance,  
25 concealment, receipt, possession, purchase, sale, barter,  
26 exchange or giving away of any contraband article.

27 (4) To conceal or possess any contraband article.

28 Section 4. Forfeiture of vessel, motor vehicle, aircraft,  
29 other personal property or contraband article;  
30 exceptions.

1       (a) Any vessel, motor vehicle, aircraft and other personal  
2 property which has been or is being used in violation of any  
3 provision of section 3, or in, upon, or by means of which any  
4 violation of said section has taken or is taking place, as well  
5 as any contraband article involved in the violation, shall be  
6 seized. All rights and interest in and title to contraband  
7 articles or contraband property used in violation of section 3  
8 shall immediately vest in the Commonwealth upon seizure by a law  
9 enforcement agency, subject only to perfection of title, rights  
10 and interest in accordance with this act. Neither replevin nor  
11 any other action to recover any interest in such property shall  
12 be maintained in any court, except as provided in this act. In  
13 any incident in which possession of any contraband article  
14 defined in section 2, constitutes a felony, the vessel, motor  
15 vehicle, aircraft and personal property in or on which such  
16 contraband article is located at the time of seizure, shall be  
17 contraband subject to forfeiture. It shall be presumed that the  
18 vessel, motor vehicle, aircraft or personal property, in or on  
19 which such contraband article is located at the time of seizure,  
20 is being used or was intended to be used in any manner to  
21 facilitate the transportation, carriage, conveyance, concealment  
22 receipt, possession, purchase, sale, barter, exchange or giving  
23 away of any contraband article defined in section 2.

24       (b) No property shall be forfeited under the provisions of  
25 this act, if the owner of such property establishes that he  
26 neither knew nor should have known after a reasonable inquiry  
27 that such property was being employed or likely to be employed  
28 in criminal activity.

29       (c) No bona fide lienholder's interest shall be forfeited  
30 under the provisions of this act if such lienholder establishes

1 that he neither knew nor should have known after a reasonable  
2 inquiry that such property was being or was likely to be used  
3 for illegal activity, that such use was without his consent,  
4 express or implied and that the lien had been perfected in the  
5 manner prescribed by law prior to such seizure. If it appears to  
6 the satisfaction of the court that a lienholder's interest  
7 satisfies the above requirements for exemption, such  
8 lienholder's interest shall be preserved by the court by  
9 ordering the lienholder's interest to be paid from such proceeds  
10 of the sale as provided in section 5.

11 Section 5. Forfeiture proceedings.

12 (a) The district attorney within whose jurisdiction the  
13 contraband article, vessel, motor vehicle, aircraft or other  
14 personal property has been seized because of its use or  
15 attempted use in violation of any provisions of law dealing with  
16 contraband or such attorney as may be employed by the seizing  
17 agency, shall promptly proceed against the contraband article,  
18 vessel, motor vehicle, aircraft or other personal property by  
19 rule to show cause in the court of common pleas within the  
20 jurisdiction in which the seizure of the offense occurred and  
21 may have such contraband article, vessel, motor vehicle,  
22 aircraft or other personal property forfeited to the use of, or  
23 to be sold by, the law enforcement agency making the seizure,  
24 upon producing due proof that the contraband article, vessel,  
25 motor vehicle, aircraft or other personal property was being  
26 used in violation of the provisions of said law. The final order  
27 of forfeiture by the court shall perfect the Commonwealth's  
28 right and interest in and title to such property and shall  
29 relate back to the date of seizure.

30 (b) If the property is of a type for which title or

1 registration is required by law or if the owner of the property  
2 is known in fact to the seizing agency at the time of seizure or  
3 if the seized property is subject to a perfected security  
4 interest in accordance with 13 Pa.C.S. § 1101 et seq. (relating  
5 to the uniform commercial code) the district attorney or such  
6 attorney as may be employed by the seizing agency, shall give  
7 notice of the forfeiture proceedings by certified mail, return  
8 receipt requested, to each person having such security interest  
9 in the property and shall publish notice of the forfeiture  
10 proceeding once each week for two consecutive weeks in a  
11 newspaper of general circulation in the county where the seizure  
12 occurred. The notice shall be mailed and first published at  
13 least four weeks prior to filing the rule to show cause and  
14 shall describe the property; state the county, place and date of  
15 seizure; state the name of the law enforcement agency holding  
16 the seizure property; and shall state the name of the court in  
17 which the proceeding will be filed and the anticipated date for  
18 filing the rule to show cause. Provided, however, that the  
19 seizing agency shall only be obligated to make district search  
20 and inquiry as to the owner of the subject property and if after  
21 such diligent search and inquiry, the seizing agency is unable  
22 to ascertain such owner, the above actual notice requirements by  
23 mail with respect to perfected security interests shall not be  
24 applicable.

25 (c) Whenever the head of the law enforcement agency  
26 effecting the forfeiture deems it necessary or expedient to sell  
27 the property forfeited rather than retain it for the use of the  
28 law enforcement agency or if the property is subject to a lien  
29 which has been preserved by the court, he shall cause a notice  
30 of the sale to be made by publication as provided by law and

1 thereafter shall dispose of said property at public auction to  
2 the highest bidder for cash without appraisal. In lieu of the  
3 sale of the property, the head of the law enforcement agency,  
4 whenever he deems it necessary or expedient, may salvage the  
5 property or transfer the property to any public or nonprofit  
6 organization, provided such property is not subject to lien  
7 preserved by the court as provided in section 4. The proceeds of  
8 sale shall be applied first to payment of the balance due on any  
9 lien preserved by the court in the forfeiture proceedings;  
10 second payment of the cost incurred by the seizing agency in  
11 connection with the storage, maintenance, security and  
12 forfeiture of each property; third, payment of the costs  
13 incurred by the district attorney; fourth, payment of costs  
14 incurred by the court. The remaining funds shall be deposited in  
15 a special municipal pension fund which is hereby created in the  
16 Department of Community Affairs. The funds shall be invested and  
17 the income earned thereon shall be given in the form of grants  
18 to those municipalities with unfunded pension plans if the  
19 Secretary of the Department of Community Affairs determines that  
20 the municipality has taken steps to insure the financial  
21 integrity of the pension plan. The secretary shall have the  
22 right to determine the size of the grant and which  
23 municipalities shall be entitled to the grant.

24 (d) Upon the sale of any vessel, motor vehicle or aircraft,  
25 the Commonwealth shall issue a title certificate to the  
26 purchaser. Upon the request of any law enforcement agency which  
27 elects to retain titled property after forfeiture, the  
28 Commonwealth shall issue a title certificate for such property  
29 to said agency.

30 (e) Any law enforcement agency receiving forfeited property

1 or proceeds from the sale of forfeited property in accordance  
2 with this act shall submit a quarterly report to the entity  
3 which has budgetary authority over such agency, which report  
4 shall specify, for such period, the type and approximate value  
5 of the property received and the amount of any proceeds  
6 received. Neither the law enforcement agency nor the entity  
7 having budgetary control shall anticipate future forfeitures or  
8 proceeds therefrom in the adoption and approval of the budget  
9 for the law enforcement agency.

10 Section 6. Repealer.

11 All acts and parts of acts are hereby repealed insofar as  
12 they are inconsistent with the provisions of this act.

13 Section 7. Effective date.

14 This act shall take effect in 60 days.