

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2553 Session of
1982

INTRODUCED BY CIVERA, FREIND, DURHAM, ARTY, SALVATORE, SPITZ,
MICOZZIE, POTT, GALLAGHER, GANNON AND STEVENS, 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. Subsection (b) of section 2, act of April 14,
16 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
17 Device and Cosmetic Act," is amended by adding a definition to
18 read:

19 Section 2. Definitions.--* * *

20 (b) As used in this act:

21 * * *

22 "Appropriate political subdivision" means the political

1 subdivision employing the law enforcement authority which makes
2 or assists in an arrest resulting in a seizure of property
3 subject to forfeiture under the act.

4 * * *

5 Section 2. The introductory paragraph of subsection (a),
6 clause (3) of subsection (d) and subsection (e) of section 28
7 are amended, subsection (a) is amended by adding a clause and
8 subsections are added to read:

9 Section 28. Forfeiture.--(a) The following shall be subject
10 to forfeiture to the Commonwealth or appropriate political
11 subdivision and no property right shall exist in them:

12 * * *

13 (6) (i) All moneys, negotiable instruments, securities or
14 other things of value furnished or intended to be
15 furnished by any person in exchange for a controlled
16 substance in violation of this act;

17 (ii) all proceeds traceable to such an exchange;

18 (iii) all moneys, negotiable instruments and securities
19 used or intended to be used to facilitate any violation of
20 this act; and

21 (iv) except that no property shall be forfeited under
22 this clause, to the extent of the interest of an owner, by
23 reason of any act or omission established by the owner, to
24 have been committed or omitted without the knowledge or
25 consent of that owner. Any such money and/or negotiable
26 instruments found in close proximity to controlled substances
27 possessed in violation of this act shall be rebutably
28 presumed to be proceeds derived from the selling of a
29 controlled substance in violation of the act.

30 * * *

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement authority subject only to the orders and decrees of the court of common pleas having jurisdiction over the forfeiture proceedings and of the secretary. When property is seized under this act, the law enforcement authority shall:

* * *

(3) Require that the department or the appropriate political subdivision take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) Whenever property is forfeited under this act, the property shall be transferred to the custody of the [department] Office of Attorney General or the appropriate political subdivision and the [secretary] Attorney General or chief executive officer of the political subdivision may:

(1) Retain the property for official use;

(2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, but the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising and court costs.

(f) In the event that the Commonwealth and a political subdivision, or two or more political subdivisions cooperate in making an arrest resulting in a seizure of property subject to forfeiture under this act, each participating governmental unit (including the Commonwealth) shall state whether it desires to retain the property under (e)(1). If only one of the participating governmental units desires to maintain the property, the property shall be transferred to the custody of

1 that political subdivision or the Department of Justice in
2 behalf of the Commonwealth. If two or more of the participating
3 governmental units desire to maintain the property, then lots
4 shall be drawn and the property shall be transferred to the
5 custody of the winner. If no participating governmental unit
6 indicates a desire to retain the property, the property shall be
7 sold and the proceeds, after payment of the costs delineated in
8 (e)(2) shall be divided among the participating governmental
9 units in proportion to the working hours contributed by each in
10 order to make the arrest.

11 (g) All proceeds or property received under this section
12 shall be utilized by the Commonwealth or appropriate political
13 subdivision to enforce the provisions of this act.

14 Section 3. This act shall take effect in 60 days.