

AMENDMENTS TO SENATE BILL NO. 8

Sponsor: SENATOR STREET

Printer's No. 719

1 Amend Bill, page 1, lines 1 through 32; page 2, lines 1
2 through 11; by striking out all of said lines on said pages and
3 inserting
4 Amending Titles 4 (Amusements), 18 (Crimes and Offenses), 30
5 (Fish), 42 (Judiciary and Judicial Procedure) and 75
6 (Vehicles) of the Pennsylvania Consolidated Statutes, in
7 administration and enforcement relating to gaming, further
8 providing for prohibited acts and penalties; in inchoate
9 crimes, further providing for the offense of manufacture,
10 distribution, use of possession of devices for theft of
11 telecommunications services; in criminal homicide, further
12 providing for drug delivery resulting in death; in loss of
13 property rights relating to sexual offenses, further
14 providing for general rule and repealing provisions relating
15 to process and seizure, to custody of property and to
16 disposal of property; in forgery and other fraudulent
17 practices, further providing for the offenses of copying and
18 recording devices and of trademark counterfeiting; in riot,
19 disorderly conduct and related offenses, further providing
20 for the offense of gambling devices, gambling, etc; in
21 wiretapping and electronic surveillance, further providing
22 for seizure and forfeiture of electronic, mechanical or other
23 devices; in minors, further providing for sentencing and
24 penalties for trafficking drugs to minors; in nuisances,
25 further providing for the offense of scattering rubbish; in
26 other offenses, further providing for drug trafficking
27 sentencing and penalties; in vehicle chop shop and illegally
28 obtained and altered property, further providing for loss of
29 property rights to Commonwealth and repealing provisions
30 relating to procedure with respect to seized property subject
31 to liens and rights of lienholders; in enforcement, relating
32 to Fish and Boat Code, further providing for forfeiture of
33 fish and devices; adding provisions relating to asset
34 forfeiture in Judicial Code; in forfeitures, further
35 providing for controlled substances forfeiture and for
36 procedure with respect to seized property subject to liens
37 and rights of lienholders; in size, weight and load relating

1 to Vehicle Code, further providing for transporting
2 foodstuffs in vehicles used to transport waste; in liquid
3 fuels and fuel use tax enforcement, further providing for
4 forfeitures and process and procedures and for disposition of
5 fines and forfeitures; and making repeals of provisions of
6 the Liquor Code, the Tax Reform Code of 1971 and another act
7 relating to certain forfeiture of property.

8 Amend Bill, page 2, lines 14 through 35; pages 3 through 70,
9 lines 1 through 30; page 71, lines 1 through 16; by striking out
10 all of said lines on said pages and inserting

11 Section 1. Section 1518(f) of Title 4 of the Pennsylvania
12 Consolidated Statutes is amended to read:

13 § 1518. Prohibited acts; penalties.

14 * * *

15 (f) Property subject to seizure, confiscation, destruction
16 or forfeiture.--Any equipment, device or apparatus, money,
17 material, gaming proceeds or substituted proceeds or real or
18 personal property used, obtained or received or any attempt to
19 use, obtain or receive the device, apparatus, money, material,
20 proceeds or real or personal property in violation of this part
21 shall be subject to [seizure, confiscation, destruction or
22 forfeiture] the provisions of 42 Pa.C.S. Ch. 58 (relating to
23 asset forfeiture).

24 Section 2. Sections 910(c.1), 2506(f) and 3141 of Title 18
25 are amended to read:

26 § 910. Manufacture, distribution, use or possession of devices
27 for theft of telecommunications services.

28 * * *

29 (c.1) Forfeiture of unlawful telecommunication devices.--
30 Upon conviction of a defendant under this section, the court
31 may, in addition to any other sentence authorized by law, direct
32 that the defendant forfeit any unlawful telecommunication
33 devices in the defendant's possession or control which were
34 involved in the violation for which the defendant was convicted.
35 The forfeiture shall be conducted in accordance with 42 Pa.C.S.
36 Ch. 58 (relating to asset forfeiture).

37 * * *

38 § 2506. Drug delivery resulting in death.

39 * * *

40 (f) Forfeiture.--Assets against which [a forfeiture
41 petition] an information or indictment seeking forfeiture has
42 been filed and is pending or against which the Commonwealth has
43 indicated an intention to file [a forfeiture petition] an
44 information or indictment seeking a forfeiture shall not be
45 subject to a fine. Nothing in this section shall prevent a fine
46 from being imposed on assets which have been subject to an
47 unsuccessful forfeiture [petition] proceeding.

48 § 3141. General rule.

1 A person:

2 (1) convicted under section 3121 (relating to rape),
3 3122.1 (relating to statutory sexual assault), 3123 (relating
4 to involuntary deviate sexual intercourse), 3124.1 (relating
5 to sexual assault), 3125 (relating to aggravated indecent
6 assault) or 3126 (relating to indecent assault); or

7 (2) required to register with the Pennsylvania State
8 Police under 42 Pa.C.S. Ch. 97 Subch. H (relating to
9 registration of sexual offenders);

10 may be required to forfeit property rights in any property or
11 assets used to implement or facilitate commission of the crime
12 or crimes of which the person has been convicted. [Such property
13 may include, but is not limited to, a computer or computers,
14 telephone equipment, firearms, licit or illicit prescription
15 drugs or controlled substances, a motor vehicle or such other
16 property or assets as determined by the court of common pleas to
17 have facilitated the person's criminal misconduct.] The
18 forfeiture shall be conducted in accordance with 42 Pa.C.S. Ch.
19 58 (relating to asset forfeiture).

20 Section 3. Sections 3142, 3143 and 3144 of Title 18 are
21 repealed:

22 [§ 3142. Process and seizure.

23 (a) Seizure.--Property subject to forfeiture under this
24 section may be seized by law enforcement authority upon process
25 issued by the court of common pleas having jurisdiction over the
26 person or property.

27 (b) Seizure without process.--Seizure without process may be
28 made if the seizure is incident to an arrest or a search under a
29 search warrant and there is probable cause to be believe that
30 the property was or is material to the charges for which the
31 arrest or search warrant was issued. In seizures without
32 process, proceedings for the issuance thereof shall be
33 instituted immediately.

34 (c) Return of property.--Property belonging to someone other
35 than the convicted sex offender or registrant shall be returned
36 if the offense was committed without the knowledge or consent of
37 the owner.

38 § 3143. Custody of property.

39 Property taken or detained under this subchapter is deemed to
40 be the property of the law enforcement authority having custody
41 thereof and is subject only to the court of common pleas having
42 jurisdiction over the criminal or forfeiture proceedings, the
43 district attorney in the matter or the Attorney General.

44 § 3144. Disposal of property.

45 Property taken or detained pursuant to the provisions of this
46 subchapter shall be sold in the manner of property forfeited
47 under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net
48 proceeds, as determined by the law enforcement authority having
49 custody thereof, shall be utilized for investigation or
50 prosecution of sexual offenses or donated to nonprofit
51 charitable institutions which provide counseling and other

1 assistance to victims of sexual offenses.]

2 Section 4. Sections 4116(i), 4119(f)(1) and (2)(i), 5513(b),
3 5707, 6314(f), 6501(b)(5) and (d), 7508(e) and 7707 of Title 18
4 are amended to read:

5 § 4116. Copying; recording devices.

6 * * *

7 (i) Forfeiture.--

8 (1) No property right shall exist in any property used
9 or intended for use in the commission of a violation of this
10 section or in any proceeds traceable to a violation of this
11 section, and the same shall be deemed contraband and
12 forfeited in accordance with the provisions [set forth in
13 section 6501(d) (relating to scattering rubbish)] of 42
14 Pa.C.S. Ch. 58 (relating to asset forfeiture).

15 [(2) Property and proceeds found in close proximity to
16 illegally recorded devices shall be rebuttably presumed to be
17 used or intended for use to facilitate a violation of this
18 section.]

19 (3) The provisions of this subsection shall not, in any
20 way, limit the right of the Commonwealth to exercise any
21 rights or remedies otherwise provided by law.

22 § 4119. Trademark counterfeiting.

23 * * *

24 (f) Seizure, forfeiture and disposition.--

25 (1) Any items bearing a counterfeit mark, any property
26 constituting or derived from any proceeds obtained[, directly
27 or indirectly,] as the result of an offense under this
28 section and all personal property, including, but not limited
29 to, any items, objects, tools, machines, equipment,
30 instrumentalities or vehicles of any kind, used in connection
31 with a violation of this section shall be seized by a law
32 enforcement officer.

33 (2) (i) All seized personal property and property
34 constituting or derived from any proceeds referenced in
35 paragraph (1) shall be forfeited in accordance with [the
36 procedures set forth in section 6501(d) (relating to
37 scattering rubbish)] 42 Pa.C.S. Ch. 58 (relating to asset
38 forfeiture).

39 * * *

40 § 5513. Gambling devices, gambling, etc.

41 * * *

42 (b) Confiscation of gambling devices.--Any gambling device
43 possessed or used in violation of the provisions of subsection
44 (a) of this section shall be seized and forfeited to the
45 Commonwealth. [All provisions of law relating to the seizure,
46 summary and judicial forfeiture, and condemnation of
47 intoxicating liquor shall apply to seizures and forfeitures
48 under the provisions of this section.] The forfeiture shall be
49 conducted in accordance with 42 Pa.C.S. Ch. 58 (relating to
50 asset forfeiture).

51 * * *

1 § 5707. Seizure and forfeiture of electronic, mechanical or
2 other devices.

3 Any electronic, mechanical or other device possessed, used,
4 sent, distributed, manufactured, or assembled in violation of
5 this chapter is hereby declared to be contraband and may be
6 seized and forfeited to the Commonwealth in accordance with 42
7 Pa.C.S. Ch. 58 (relating to asset forfeiture).

8 § 6314. Sentencing and penalties for trafficking drugs to
9 minors.

10 * * *

11 (f) Forfeiture.--Assets against which [a forfeiture
12 petition] an information or indictment seeking forfeiture has
13 been filed and is pending or against which the Commonwealth has
14 indicated an intention to file [a forfeiture petition] an
15 information of indictment seeking forfeiture shall not be
16 subject to a fine under this section.

17 * * *

18 § 6501. Scattering rubbish.

19 * * *

20 (b) Penalty.--

21 * * *

22 (5) Any vehicle, equipment or conveyance, including any
23 private automobile and small truck, used for the
24 transportation or disposal of trash, garbage or debris in the
25 commission of a second or subsequent offense under subsection
26 (a)(3) may be deemed contraband and forfeited in accordance
27 with [the provisions set forth in this section] 42 Pa.C.S.
28 Ch. 58 (relating to asset forfeiture).

29 * * *

30 [(d) Forfeiture.--

31 (1) Property subject to forfeiture under this section
32 may be seized by the law enforcement authority upon process
33 issued by any court of common pleas having jurisdiction over
34 the property.

35 (2) Property taken or detained under this section shall
36 not be subject to replevin but is deemed to be in the custody
37 of the law enforcement authority subject only to the orders
38 and decrees of the court of common pleas having jurisdiction
39 over the forfeiture proceedings and of the district attorney.
40 When property is seized under this section, the law
41 enforcement authority shall place the property under seal and
42 either:

43 (i) remove the property to a place designated by it;

44 or

45 (ii) require that the district attorney take custody
46 of the property and remove it to an appropriate location
47 for disposition in accordance with law.

48 (3) Whenever property is forfeited under this section,
49 the property shall be transferred to the custody of the
50 municipal corporation. The municipal corporation shall sell
51 any forfeited property, but the proceeds from any such sale

1 shall be used to pay all proper expenses of the proceedings
2 for forfeiture and sale, including expenses of seizure,
3 maintenance of custody, advertising and court costs. The
4 balance of the proceeds shall be used for the enforcement of
5 this act.

6 (4) The proceedings for the forfeiture or condemnation
7 of property, the sale of which is provided for in this
8 section, shall be in rem, in which the Commonwealth shall be
9 the plaintiff and the property the defendant. A petition
10 shall be filed in the court of common pleas of the judicial
11 district where the property is located, verified by oath or
12 affirmation of an officer or citizen, containing the
13 following:

- 14 (i) A description of the property seized.
- 15 (ii) A statement of the time and place where seized.
- 16 (iii) The owner, if known.
- 17 (iv) The person or persons in possession, if known.
- 18 (v) An allegation that the property is subject to
19 forfeiture pursuant to this subsection and an averment of
20 material facts upon which the forfeiture action is based.
- 21 (vi) A prayer for an order of forfeiture that the
22 property be adjudged forfeited to the Commonwealth and
23 condemned and be ordered sold according to law, unless
24 cause be shown to the contrary.

25 (5) A copy of the petition required under paragraph (4)
26 shall be served personally or by certified mail on the owner
27 or upon the person or persons in possession at the time of
28 the seizure. The copy shall have endorsed a notice, as
29 follows:

30 To the Claimant of within Described Property:
31 You are required to file an answer to this petition,
32 setting forth your title in, and right to possession of,
33 the property within 30 days from the service hereof, and
34 you are also notified that, if you fail to file the
35 answer, a decree of forfeiture and condemnation will be
36 entered against the property.

37 The notice shall be signed by the district attorney, deputy
38 district attorney or assistant district attorney.

39 (6) If the owner of the property is unknown or there was
40 no person in possession of the property when seized or if the
41 owner or such person or persons in possession at the time of
42 the seizure cannot be personally served or located within the
43 jurisdiction of the court, notice of the petition shall be
44 given by the Commonwealth through an advertisement in only
45 one newspaper of general circulation published in the county
46 where the property shall have been seized, once a week for
47 two successive weeks. No other advertisement of any sort
48 shall be necessary, any other law to the contrary
49 notwithstanding. The notice shall contain a statement of the
50 seizure of the property with a description of the property
51 and the place and date of seizure and shall direct any

1 claimants to the property to file a claim on or before a date
2 given in the notice, which date shall not be less than 30
3 days from the date of the first publication. If no claims are
4 filed within 30 days of publication, the property shall
5 summarily forfeit to the Commonwealth.

6 (7) For purposes of this section, the owner or other
7 such person cannot be found in the jurisdiction of the court
8 if:

9 (i) a copy of the petition is mailed to the last
10 known address by certified mail and is returned without
11 delivery;

12 (ii) personal service is attempted once but cannot
13 be made at the last known address; and

14 (iii) a copy of the petition is left at the last
15 known address.

16 (8) The notice provisions of this section are
17 automatically waived when the owner, without good cause,
18 fails to appear in court in response to a subpoena on the
19 underlying criminal charges. Forty-five days after such a
20 failure to appear, if good cause has not been demonstrated,
21 the property shall summarily forfeit to the Commonwealth.

22 (9) Upon the filing of a claim for the property setting
23 forth a right of possession, the case shall be deemed at
24 issue and a time shall be fixed for the hearing.

25 (10) At the time of the hearing, if the Commonwealth
26 produces evidence that the property in question was
27 unlawfully used, possessed or otherwise subject to forfeiture
28 under this section, the burden shall be upon the claimant to
29 show:

30 (i) That the claimant is the owner of the property
31 or the holder of a chattel mortgage or contract of
32 conditional sale thereon.

33 (ii) That the claimant lawfully acquired the
34 property.

35 (iii) That it was not unlawfully used or possessed
36 by him. In the event that it shall appear that the
37 property was unlawfully used or possessed by a person
38 other than the claimant, then the claimant shall show
39 that the unlawful use or possession was without his
40 knowledge or consent. Such absence of knowledge or
41 consent must be reasonable under the circumstances
42 presented.

43 (11) If a person claiming the ownership of or right of
44 possession to or claiming to be the holder of a chattel
45 mortgage or contract of conditional sale upon the property,
46 the disposition of which is provided for in this section,
47 prior to the sale presents a petition to the court alleging
48 over the property lawful ownership, right of possession, a
49 lien or reservation of title and if, upon public hearing, due
50 notice of which having been given to the district attorney,
51 the claimant shall prove by competent evidence to the

1 satisfaction of the court that the property was lawfully
2 acquired, possessed and used by him or, it appearing that the
3 property was unlawfully used by a person other than the
4 claimant, that the unlawful use was without the claimant's
5 knowledge or consent, then the court may order the property
6 returned or delivered to the claimant. Such absence of
7 knowledge or consent must be reasonable under the
8 circumstances presented. Otherwise, it shall be retained for
9 official use or sold in accordance with paragraph (4).]

10 * * *

11 § 7508. Drug trafficking sentencing and penalties.

12 * * *

13 (e) Forfeiture.--Assets against which [a forfeiture
14 petition] an information or indictment seeking forfeiture has
15 been filed and is pending or against which the Commonwealth has
16 indicated an intention to file [a forfeiture petition] an
17 information or indictment seeking forfeiture shall not be
18 subject to a fine. Nothing in this section shall prevent a fine
19 from being imposed on assets which have been subject to an
20 unsuccessful forfeiture [petition] proceeding.

21 * * *

22 § 7707. Loss of property rights to Commonwealth.

23 [(a) Forfeitures generally.--The following shall be subject
24 to forfeiture to the Commonwealth, and no property right shall
25 exist in them:

26 (1) Any tool, implement or instrumentality, including,
27 but not limited to, a vehicle or vehicle part used or
28 possessed in connection with any violation of this chapter.

29 (2) All materials, products and equipment of any kind
30 which are used or intended for use in violation of this
31 chapter.

32 (3) All books, records, microfilm, tapes and data which
33 are used or intended for use in violation of this chapter.

34 (4) All money, negotiable instruments, securities or
35 other things of value used or intended to be used to
36 facilitate any violation of this chapter and all proceeds
37 traceable to any transactions in violation of this chapter.

38 (5) All real property used or intended to be used to
39 facilitate any violation of this chapter, including
40 structures or other improvements thereon and including any
41 right, title and interest in the whole or any lot or tract of
42 land and any appurtenances or improvements which are used or
43 intended to be used in any manner or part to commit or to
44 facilitate the commission of a violation of this chapter.

45 (b) Exceptions.--

46 (1) No property shall be forfeited under this section,
47 to the extent of the interest of an owner, by reason of any
48 act or omission established by the owner to have been
49 committed or omitted without the knowledge or consent of that
50 owner.

51 (2) No valid lien or encumbrance on real property shall

1 be subject to forfeiture or impairment under this paragraph.
2 A lien which is fraudulent or intended to avoid forfeiture
3 under this section shall be invalid.

4 (c) Process and seizure.--Property subject to forfeiture
5 under this chapter may be seized by the law enforcement
6 authority upon process issued by a court of common pleas having
7 jurisdiction over the property. Seizure without process may be
8 made if:

9 (1) the seizure is incident to an arrest or a search
10 warrant or inspection under 75 Pa.C.S. § 6308 (relating to
11 investigation by police officers) or any other administrative
12 inspection;

13 (2) the property subject to seizure has been the subject
14 of a proper judgment in favor of the Commonwealth in a
15 criminal injunction or forfeiture proceeding under this
16 chapter;

17 (3) there is probable cause to believe that the property
18 is dangerous to health or safety; or

19 (4) there is probable cause to believe that the property
20 has been used or is intended to be used in violation of this
21 chapter.

22 (d) Seizure without process.--In the event seizure without
23 process occurs as provided in this chapter, proceeding for the
24 issuance thereof shall be instituted forthwith.

25 (e) Custody of property.--Property taken or detained under
26 this section shall not be subject to replevin but is deemed to
27 be in the custody of the law enforcement authority, subject only
28 to the orders and decrees of the court of common pleas having
29 jurisdiction over the forfeiture proceedings and of the district
30 attorney or the Office of Attorney General. When property is
31 seized under this chapter, the law enforcement authority shall
32 place the property under seal and either:

33 (1) remove the property to a place designated by it; or

34 (2) require that the district attorney or the Office of
35 Attorney General take custody of the property and remove it
36 to an appropriate location for disposition in accordance with
37 law.

38 (f) Use of property held in custody.--

39 (1) Whenever property is forfeited under this chapter,
40 the property shall be transferred to:

41 (i) the custody of the district attorney, if the law
42 enforcement authority seizing the property has local or
43 county jurisdiction; or

44 (ii) the Office of Attorney General, if the law
45 enforcement authority seizing the property has Statewide
46 jurisdiction.

47 (2) The district attorney or the Office of Attorney
48 General, where appropriate, may:

49 (i) Retain the property for official use.

50 (ii) Sell any forfeited property which is not
51 required to be destroyed by law and which is not harmful

1 to the public, but the proceeds from any such sale must
2 be used to pay all proper expenses of the proceeding for
3 forfeiture and sale, including expenses of seizure,
4 maintenance of custody, advertising and court costs. The
5 balance of the proceeds shall be dealt with in accordance
6 with subsections (g) and (h).

7 (g) Use of cash, property or proceeds of property.--Cash or
8 proceeds of forfeited property transferred to the custody of the
9 district attorney under subsection (f) shall be placed in the
10 operating fund of the county in which the district attorney is
11 elected. The appropriate county authority shall immediately
12 release from the operating fund, without restriction, a like
13 amount for the use of the district attorney in enforcing the
14 criminal laws of this Commonwealth. The entity having budgetary
15 control shall not anticipate future forfeitures or proceeds from
16 such forfeitures in adoption and approval of the budget for the
17 district attorney.

18 (h) Distribution of property among law enforcement
19 authorities.--If both State and municipal law enforcement
20 authorities were substantially involved in effecting the
21 seizure, the court having jurisdiction over the forfeiture
22 proceedings shall equitably distribute the property between the
23 district attorney and the Office of Attorney General.

24 (i) Annual audit of forfeited property.--A county shall
25 provide, through the controller, board of auditors or other
26 appropriate auditor and the district attorney, an annual audit
27 of all forfeited property and proceeds obtained under this
28 section. The audit shall not be made public but shall be
29 submitted to the Office of Attorney General. The county shall
30 report all forfeited property and proceeds obtained under this
31 section and the disposition thereof to the Office of Attorney
32 General by September 30 of each year.

33 (j) Annual report; confidential information regarding
34 property.--The Office of Attorney General shall annually submit
35 a report to the Appropriations Committee of the Senate, the
36 Appropriations Committee of the House of Representatives, the
37 Judiciary Committee of the Senate and the Judiciary Committee of
38 the House of Representatives specifying the forfeited property
39 or proceeds thereof obtained under this section. The report
40 shall give an account of all proceeds derived from the sale of
41 forfeited property and the use made of unsold forfeited
42 property. The Office of Attorney General shall adopt procedures
43 and guidelines governing the release of information by the
44 district attorney to protect the confidentiality of forfeited
45 property or proceeds used in ongoing enforcement activities.

46 (k) Proceeds and appropriations.--The proceeds or future
47 proceeds from forfeited property under this chapter shall be in
48 addition to any appropriation made to the Office of Attorney
49 General.] Forfeiture of property shall be authorized for
50 violation of this chapter and conducted in accordance with 42
51 Pa.C.S. Ch. 58 (relating to asset forfeiture).

1 Section 5. Section 7708 of Title 18 is repealed:
2 [§ 7708. Procedure with respect to seized property subject to
3 liens and rights of lienholders.

4 (a) General procedure.--The proceedings for the forfeiture
5 or condemnation of property, the sale of which is provided for
6 under this chapter, shall be in rem in which the Commonwealth
7 shall be the plaintiff and the property the defendant. The
8 Pennsylvania Rules of Civil Procedure shall apply to all
9 forfeiture proceedings brought under this chapter. A petition
10 shall be filed in the court of common pleas of the judicial
11 district where the property is located, verified by oath or
12 affirmation of an officer or citizen, containing the following:

13 (1) A description of the property seized.

14 (2) A statement of the time and place where seized.

15 (3) The owner, if known.

16 (4) The person or persons in possession, if known.

17 (5) An allegation that the property is subject to
18 forfeiture under section 7707 (relating to loss of property
19 rights to Commonwealth) and an averment of material facts
20 upon which the forfeiture action is based.

21 (6) A prayer for an order of forfeiture that the
22 property be adjudged forfeited to the Commonwealth and
23 condemned and be ordered sold according to law unless cause
24 be shown to the contrary.

25 (b) Notice to property owners.--A copy of the petition
26 required under subsection (a) shall be served personally or by
27 certified mail on the owner or upon the person or persons in
28 possession at the time of the seizure. The copy shall have
29 endorsed a notice as follows:

30 To the claimant of within described property: You are
31 required to file an answer to this petition, stating your
32 title in and right to possession of the property within 30
33 days from the service of this petition, and you are also
34 notified that, if you fail to file an answer, a decree of
35 forfeiture and condemnation will be entered against the
36 property.

37 The notice shall be signed by the Attorney General, Deputy
38 Attorney General, district attorney, deputy district attorney or
39 assistant district attorney.

40 (c) Substitute notice.--

41 (1) If the owner of the property is unknown or there was
42 no person in possession of the property when seized or if the
43 owner or such person or persons in possession at the time of
44 the seizure cannot be personally served or located within the
45 jurisdiction of the court, notice of the petition shall be
46 given by the Commonwealth through an advertisement in only
47 one newspaper of general circulation published in the county
48 where the property was seized once a week for two successive
49 weeks. No other advertisement of any sort shall be necessary,
50 any other law to the contrary notwithstanding.

51 (2) The notice shall:

1 (i) contain a statement of the seizure of the
2 property with a description of the property and the place
3 and date of seizure; and

4 (ii) direct any claimants to the property to file a
5 claim on or before a date given in the notice, which date
6 shall not be less than 30 days from the date of the first
7 publication.

8 (3) If no claims are filed within 30 days of
9 publication, the property shall summarily forfeit to the
10 Commonwealth.

11 (d) Property owners not in jurisdiction.--For purposes of
12 this section, the owner or other such person cannot be found in
13 the jurisdiction of the court if:

14 (1) A copy of the petition is mailed to the last known
15 address by certified mail and is returned without a delivery.

16 (2) A personal service is attempted once but cannot be
17 made at the last known address.

18 (3) A copy of the petition is left at the last known
19 address.

20 (e) Notice automatically waived.--

21 (1) The notice provisions of this section are
22 automatically waived when the owner, without good cause,
23 fails to appear in court in response to a subpoena on the
24 underlying criminal charges.

25 (2) Forty-five days after such a failure to appear, if
26 good cause has not been demonstrated, the property shall
27 summarily forfeit to the Commonwealth.

28 (f) Preservation of the property subject for forfeiture.--

29 (1) Upon application of the Commonwealth, the court may
30 enter a restraining order or injunction, require the
31 execution of a satisfactory performance bond or take any
32 other action to preserve the availability of property
33 described in section 7707 for forfeiture under this section
34 either:

35 (i) upon the filing of an information or an
36 indictment charging a violation of this chapter for which
37 criminal forfeiture may be ordered under this chapter and
38 alleging that the property with respect to which the
39 order is sought would be subject to forfeiture; or

40 (ii) prior to the filing of such an indictment or
41 information if, after notice to persons appearing to have
42 an interest in the property and an opportunity for a
43 hearing, the court determines that:

44 (A) There is a substantial probability that the
45 Commonwealth will prevail on the issue of forfeiture
46 and that failure to enter the order will result in
47 the property being destroyed, removed from the
48 jurisdiction of the court or otherwise made
49 unavailable for forfeiture.

50 (B) The need to preserve the availability of the
51 property through the entry of the requested order

1 outweighs the hardship on any party against whom the
2 order is to be entered.

3 (2) An order entered under this subsection shall be
4 effective for not more than 90 days unless extended by the
5 court for good cause shown or unless an indictment or
6 information described in paragraph (1)(i) has been filed.

7 (g) Temporary restraining order.--

8 (1) A temporary restraining order under subsection (f)
9 may be entered upon application of the Commonwealth without
10 notice or opportunity for a hearing when an information or
11 indictment has not yet been filed with respect to the
12 property if the Commonwealth demonstrates that:

13 (i) there is probable cause to believe that the
14 property with respect to which the order is sought would
15 be subject to forfeiture under this chapter; and

16 (ii) the provision of notice will jeopardize the
17 availability of the property for forfeiture.

18 (2) Such temporary order shall expire not more than ten
19 days after the date on which it is entered, unless:

20 (i) extended for good cause shown; or

21 (ii) the party against whom it is entered consents
22 to an extension for a longer period.

23 (3) A hearing requested concerning an order entered
24 under this subsection shall be held at the earliest possible
25 time and prior to the expiration of the temporary order.

26 (h) Hearing regarding property; rules of evidence.--The
27 court may receive and consider at a hearing held under
28 subsection (f) or (g) evidence and information that would be
29 inadmissible under the rules of evidence.

30 (i) Hearing time set.--Upon the filing of a claim for the
31 property setting forth a right of possession, the case shall be
32 deemed at issue, and a time shall be fixed for the hearing.

33 (j) Owner's burden of proof.--At the time of the hearing, if
34 the Commonwealth produces evidence that the property in question
35 was unlawfully used, possessed or otherwise subject to
36 forfeiture under section 7706 (relating to presumptions), the
37 burden shall be upon the claimant to show that:

38 (1) The claimant is the owner of the property or the
39 holder of a chattel mortgage or contract of conditional sale
40 thereon.

41 (2) The claimant lawfully acquired the property.

42 (3) It was not unlawfully used or possessed by the
43 claimant. In the event that it shall appear that the property
44 was unlawfully used or possessed by a person other than the
45 claimant, then the claimant must show that the unlawful use
46 or possession was without the claimant's knowledge or
47 consent. Such absence of knowledge or consent must be
48 reasonable under the circumstances presented.

49 (k) Court-ordered release of property.--

50 (1) If a person claiming the ownership of or right of
51 possession to or claiming to be the holder of a chattel

1 mortgage or contract of conditional sale upon the property,
2 the disposition of which is provided for in this section,
3 prior to the sale presents a petition to the court alleging
4 over the property lawful ownership, right of possession, a
5 lien or reservation of title and if, upon public hearing, due
6 notice of which having been given to the Office of Attorney
7 General or the district attorney, the claimant proves by
8 competent evidence to the satisfaction of the court:

9 (i) that the property was lawfully acquired,
10 possessed and used by him; or

11 (ii) if it appears that the property was unlawfully
12 used by a person other than the claimant, that the
13 unlawful use was without the claimant's knowledge or
14 consent,

15 then the court may order the property returned or delivered
16 to the claimant.

17 (2) Such absence of knowledge or consent must be
18 reasonable under the circumstances presented. Otherwise, the
19 property shall be retained for official use or sold in
20 accordance with section 7707(f).]

21 Section 6. Section 927 of Title 30 is amended to read:

22 § 927. Forfeiture of fish and devices.

23 (a) General rule.--A person convicted of an offense under
24 this title shall forfeit any fish seized under section 901(6)
25 (relating to powers and duties of waterways patrolmen and
26 deputies) and any device confiscated under this title.

27 Forfeitures shall be conducted in accordance with 42 Pa.C.S. Ch.
28 58 (relating to asset forfeiture).

29 [(b) Disposition of confiscated property.--Any property
30 confiscated by the commission under this title shall be sold or
31 otherwise disposed of by the executive director. These
32 dispositions shall be recorded on the books of the commission.]

33 Section 7. Title 42 is amended by adding a chapter to read:

34 CHAPTER 58

35 ASSET FORFEITURE

36 Sec.

37 5801. Scope of criminal asset forfeiture.

38 5802. Criminal asset forfeiture in general.

39 5803. Process for criminal asset forfeiture.

40 5804. Process for third-party interest holders.

41 5805. Interaction with the Federal Government.

42 § 5801. Scope of criminal asset forfeiture.

43 (a) Certain forfeitures exempted.--Forfeitures of property
44 shall be conducted in accordance with this chapter, except for
45 forfeitures authorized by:

46 (1) Section 3 of the act of July 8, 1978 (P.L.792,
47 No.140), known as the Public Employee Pension Forfeiture Act.

48 (2) Section 6 of the act of April 6, 1980 (P.L.102,
49 No.39), entitled "An act restricting the acquisition by
50 certain aliens of an interest in agricultural lands."

51 (3) Sections 207, 211 and 505-A of the act of December

1 7, 1982 (P.L.784, No.225), known as the Dog Law.
2 (4) 18 Pa.C.S. § 3021 (relating to asset forfeiture).
3 (5) 18 Pa.C.S. § 5511 (relating to cruelty to animals).
4 (6) 18 Pa.C.S. § 6110.1 (relating to possession of
5 firearm by minor).
6 (7) 18 Pa.C.S. § 6321 (relating to transmission of
7 sexually explicit images by minor).
8 (8) 27 Pa.C.S. § 6208 (relating to penalties).
9 (9) 37 Pa.C.S. § 511 (relating to criminal penalties).
10 (10) 42 Pa.C.S. § 6801.1 (relating to terrorism
11 forfeiture).
12 (11) 75 Pa.C.S. § 9405 (relating to forfeitures; process
13 and procedures).
14 (b) Contraband per se exempted.--Nothing in this chapter
15 shall be construed to apply to the forfeiture of contraband per
16 se, the possession of which is inherently unlawful. Such
17 forfeiture includes, but is not limited to, forfeiture of the
18 following:
19 (1) Items bearing a counterfeit mark under 18 Pa.C.S. §
20 4119 (relating to trademark counterfeiting).
21 (2) Liquor, alcohol or malt or brewed beverages
22 illegally manufactured or possessed under section 601 of the
23 act of April 12, 1951 (P.L.90, No.21), known as the Liquor
24 Code.
25 (3) Unlawfully stamped cigarettes under section 307 of
26 the act of December 30, 2003 (P.L.441, No.64), known as the
27 Tobacco Product Manufacturer Directory Act.
28 (4) Unstamped cigarettes under section 1285 of the act
29 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
30 of 1971.
31 (c) Conflicting law superseded.--The procedures in this
32 chapter shall supersede any conflicting provisions of other
33 State laws.
34 (d) Preemption.--This chapter preempts any local ordinance
35 or regulation insofar as it is inconsistent with this chapter,
36 irrespective of the effective date of the ordinance or
37 regulation.
38 § 5802. Criminal asset forfeiture in general.
39 (a) Criminal in form.--Unless otherwise provided,
40 forfeitures under this chapter are criminal.
41 (b) Forfeiture disfavored.--Forfeitures are not favored
42 under State law and any ambiguity in this chapter shall be
43 strictly construed against the Commonwealth.
44 (c) Forfeitures generally.--
45 (1) After a person is convicted of an offense for which
46 forfeiture is expressly authorized as a penalty, the
47 following shall be subject to forfeiture to the Commonwealth
48 and no property right shall exist in them:
49 (i) The convicted person's property constituting or
50 derived from any proceeds obtained directly from the
51 commission of the offense.

1 (ii) The convicted person's property that:
2 (A) Was used or intended to be used to commit or
3 facilitate the commission of the offense.
4 (B) Bears a significant relationship to the
5 offense.
6 (2) No additional penalties, including, but not limited
7 to, personal money judgments, shall be authorized under this
8 chapter except as provided by section 5803(k) (relating to
9 process for criminal asset forfeiture). Any restitution made
10 to a victim using property forfeited under this chapter shall
11 serve to satisfy in part or in whole any restitution order
12 against the convicted person.
13 (3) Nothing in this section shall be construed to
14 prevent property from being forfeited by the terms of a plea
15 agreement approved by a court or of any other agreement of
16 the parties to a criminal proceeding. Forfeiture by agreement
17 shall be subject to the requirements of section 5804
18 (relating to process for third-party interest holders).
19 (d) Claims for damage, loss or impermissible sale of
20 property.--After a finding under this chapter that seized
21 property is not subject to forfeiture, the property owner may
22 bring a claim against the law enforcement authority that had
23 custody of the property and lost, damaged or impermissibly sold
24 it.
25 (e) Use of property held in custody.--
26 (1) Whenever property is forfeited under this chapter
27 and after all ancillary proceedings under section 5804 are
28 concluded, the property shall be transferred to the custody
29 of the district attorney, if the law enforcement authority
30 seizing the property has local or county jurisdiction, or the
31 Attorney General, if the law enforcement authority seizing
32 the property has Statewide jurisdiction.
33 (2) The district attorney or the Attorney General, as
34 applicable, shall sell any forfeited property that is not
35 required to be destroyed by law and is not harmful to the
36 public.
37 (3) Sale of forfeited property to an employee of the
38 district attorney or Attorney General, a person related to an
39 employee by blood or marriage or another law enforcement
40 authority is prohibited.
41 (4) The proceeds from sale shall be used to pay all
42 reasonable expenses related to the maintenance of custody and
43 sale of such property. The balance of the proceeds shall be
44 subject to subsection (f).
45 (f) Use of cash or proceeds or property.--Cash or proceeds
46 of forfeited property transferred under subsection (e) shall be
47 distributed in the following order:
48 (1) To satisfy any restitution orders for victims of the
49 underlying offense.
50 (2) To pay any liabilities owed by the Commonwealth to
51 defendants or claimants who substantially prevail under

1 subsection (l).

2 (3) Either:

3 (i) if, in the custody of the Attorney General, to
4 the Department of Revenue for deposit into the General
5 Fund; or

6 (ii) if, in the custody of the district attorney, to
7 the operating fund of the county in which the district
8 attorney is elected.

9 (g) Distribution of property among law enforcement
10 authorities.--If both municipal and State law enforcement
11 authorities were substantially involved in effecting the
12 seizure, the court having jurisdiction over the forfeiture
13 proceedings shall equitably distribute the property between the
14 district attorney and the Attorney General who shall dispose of
15 the property in accordance with subsections (e) and (f).

16 (h) Annual audit of forfeited property.--A county of this
17 Commonwealth shall provide, through the controller, board of
18 auditors or other appropriate auditor and the district attorney,
19 an annual audit of all forfeited property and proceeds obtained
20 under this section and the disposition thereof, as well as of
21 all fees awarded under subsection (l). The audit shall be
22 submitted to the Office of Attorney General by September 30 of
23 each year.

24 (i) Annual report.--The Attorney General shall annually
25 submit a report to the Appropriations Committee and Judiciary
26 Committee of the Senate and the Appropriations Committee and
27 Judiciary Committee of the House of Representatives describing
28 the forfeited property or proceeds thereof obtained under this
29 section, as well as the fees awarded under subsection (l). The
30 report shall include an accounting of all proceeds derived from
31 the sale of forfeited property.

32 (j) Public access.--All accounting and audit records
33 generated under subsections (h) and (i) shall be subject to the
34 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
35 Know Law.

36 (k) Taxpayer standing.--A taxpayer of this Commonwealth has
37 standing to challenge in court any action contrary to subsection
38 (e), (f), (g), (h), (i) or (j).

39 (l) Fee shifting.--In any forfeiture proceeding under this
40 chapter in which the defendant or claimant substantially
41 prevails, the Commonwealth shall be liable for:

42 (1) Reasonable attorney fees and other litigation costs
43 reasonably incurred by the defendant or claimant.

44 (2) Postjudgment interest.

45 (3) In cases involving currency or other negotiable
46 instruments:

47 (i) Interest actually paid to the Commonwealth, from
48 the date of seizure or arrest of the property, that
49 results from the investment of the property in an
50 interest-bearing account or instrument.

51 (ii) An imputed amount of interest that the

1 currency, instruments or proceeds would have earned at
2 the rate applicable to the 30-day Treasury Bill, for any
3 period during which no interest was paid, not including
4 any period when the property reasonably was in use as
5 evidence in an official proceeding or in conducting
6 scientific tests for the purpose of collecting evidence,
7 commencing 15 days after the property was seized by a
8 State law enforcement authority or was turned over to a
9 State law enforcement authority by a Federal law
10 enforcement authority.

11 § 5803. Process for criminal asset forfeiture.

12 (a) Seizure.--

13 (1) Property subject to forfeiture under this chapter
14 may be seized by a law enforcement authority upon process
15 issued by any court of common pleas having jurisdiction.

16 (2) Seizure without process may be made if:

17 (i) the seizure is incident to an arrest or a search
18 under a search warrant or inspection under an
19 administrative inspection warrant and there is probable
20 cause to believe that the property is subject to
21 forfeiture under section 5802(c)(1) (relating to criminal
22 asset forfeiture in general);

23 (ii) the property subject to seizure has been the
24 subject of a prior judgment in favor of the Commonwealth
25 in a criminal injunction or forfeiture proceeding under
26 this chapter; or

27 (iii) there is probable cause to believe that the
28 property is subject to forfeiture under section 5802(c)
29 (1) and process or delay is likely to result in the
30 destruction or removal of the property or in its
31 otherwise being made unavailable for forfeiture.

32 (b) Seizure of real property.--Absent exigent circumstances,
33 no real property subject to forfeiture shall be seized unless
34 the Commonwealth first provides property owners and occupants
35 with notice and an opportunity for a hearing. The hearing shall
36 be conducted in accordance with subsections (d) and (e).

37 (c) Receipt for seized property.--When property is seized,
38 the law enforcement authority shall provide an itemized receipt
39 to the person in possession of the property or, in the absence
40 of any person, leave a receipt in the place where the property
41 was found, if reasonably possible. The receipt shall provide
42 notice of the right of interest holders to move for the return
43 of seized property under subsections (d) and (e).

44 (d) Pretrial motion for return of seized property.--When
45 property has been seized for forfeiture and the defendant or
46 another putative interest holder in the property files a
47 pretrial motion for its return, the property shall promptly be
48 returned unless the Commonwealth proves that there is probable
49 cause that the property is subject to forfeiture.

50 (e) Hardship release of property subject to forfeiture.--
51 When the defendant or another putative interest holder in the

1 property files a motion for the hardship release of property,
2 the court shall order the release of seized property from the
3 seizing law enforcement authority pending the final
4 determination of forfeiture, if the putative interest holder
5 establishes by a preponderance of the evidence that:

6 (1) The putative interest holder has a possessory
7 interest in the property.

8 (2) Continued possession by the law enforcement
9 authority pending the final disposition of the forfeiture
10 proceedings will cause substantial hardship to the interest
11 holder, such as:

12 (i) preventing the functioning of a legitimate
13 business;

14 (ii) preventing an individual from working;

15 (iii) preventing a minor child or student from
16 attending school;

17 (iv) preventing or hindering an individual from
18 receiving necessary medical care;

19 (v) hindering the care of an elderly or disabled
20 dependent child or adult;

21 (vi) leaving an individual homeless; or

22 (vii) any other condition that the court determines
23 causes a substantial hardship.

24 (3) The hardship from the continued possession by the
25 law enforcement authority of the seized property outweighs
26 the risk that the property will be unlawfully used, destroyed
27 or removed from the jurisdiction of the court or otherwise
28 made unavailable for forfeiture if it is returned to the
29 owner during the pendency of the proceeding.

30 (f) Initiation of forfeiture.--

31 (1) The proceedings for forfeiture of property shall be
32 tried in the same proceeding as the criminal case concerning
33 the determination of the defendant's guilt or innocence for
34 the underlying offense, unless the defendant moves to
35 bifurcate the trial of the forfeiture from the trial of the
36 underlying criminal case.

37 (2) An information or an indictment charging the
38 defendant with an offense shall include notice to the
39 defendant that the Commonwealth will seek forfeiture as part
40 of any sentence. The notice shall include:

41 (i) An itemized list of the specific property
42 subject to forfeiture, including, but not limited to, the
43 address of any real property, the exact dollar amount of
44 any money, negotiable instrument or security and the
45 make, model, year and license plate number of any
46 vehicle.

47 (ii) A statement of the time and place of the
48 offense.

49 (iii) A description of the particular use of the
50 property in the commission of the offense or derivation
51 therefrom.

1 (g) Forfeiture phase of criminal proceeding.--After a person
2 is convicted on any count in an indictment or information for
3 which forfeiture is sought, the Commonwealth must establish at a
4 forfeiture hearing by clear and convincing evidence that the
5 property is forfeitable under section 5802(c)(1) before the
6 court enters a preliminary order of forfeiture.

7 (h) Extent of forfeitable interest.--If the court determines
8 it is in the interests of judicial economy, the court or jury
9 may determine the extent of the convicted person's forfeitable
10 interest in the property before a preliminary order of
11 forfeiture is entered. The determination shall be subject to
12 amendments under section 5804 (relating to process for third-
13 party interest holders).

14 (i) Right to trial by jury.--

15 (1) At the forfeiture hearing, the defendant shall have
16 the right to trial by jury of the forfeiture.

17 (2) The defendant may waive this right while preserving
18 the right to trial by jury of the offense charged or other
19 sentencing issues.

20 (3) Alternatively, the defendant may preserve this right
21 while waiving the right to trial by jury of the offense
22 charged or other sentencing issues.

23 (j) Excessive fines.--

24 (1) In order to enter a preliminary order of forfeiture
25 under section 5802(c)(1)(ii), the court must make a
26 determination that the forfeiture is not grossly
27 disproportional to the gravity of the underlying offense.

28 (2) The Commonwealth shall have the burden of
29 establishing proportionality by clear and convincing
30 evidence.

31 (3) The value of property forfeited shall be determined
32 by considering, among other factors:

33 (i) Its market value.

34 (ii) Its subjective value to the defendant and the
35 defendant's family members.

36 (4) The gravity of the offense shall be determined by
37 considering, among other factors:

38 (i) The penalty imposed as compared to the maximum
39 penalty available for the offense upon which the
40 forfeiture is based.

41 (ii) Whether the offense was isolated or part of a
42 pattern of criminal conduct.

43 (iii) The specific harm resulting from the offense
44 upon which the forfeiture is based.

45 (k) Forfeiture of substitute property.--

46 (1) After entering a preliminary order of forfeiture,
47 the court may order the forfeiture of substitute property up
48 to the value of the property subject to the order, if the
49 Commonwealth establishes by clear and convincing evidence
50 that:

51 (i) The convicted person intentionally transferred,

1 sold or deposited the property to avoid the court's
2 jurisdiction.

3 (ii) The substitute property is owned solely by the
4 convicted person.

5 (2) No codefendant shall be subject to joint and several
6 liability for forfeiture judgments owed by other defendants
7 under this subsection.

8 § 5804. Process for third-party interest holders.

9 (a) Notice to third parties.--After the court enters a
10 preliminary order of forfeiture, the Commonwealth shall send
11 notice to any person who reasonably appears to be a potential
12 claimant with standing to contest the forfeiture in an ancillary
13 proceeding under subsection (i). Potential claimants include,
14 but are not limited to:

15 (1) Partial or joint owners of the property subject to
16 the preliminary order of forfeiture.

17 (2) Holders of a bona fide security interest in the
18 property subject to the preliminary order of forfeiture.

19 (3) Bona fide purchasers for value of the property
20 subject to the preliminary order of forfeiture.

21 (4) Obligees of court-ordered child support from the
22 convicted person.

23 (5) Claimants of employment-related compensation from
24 the convicted person.

25 (b) Contents of notice.--Notice shall include:

26 (1) A description of the specific property subject to
27 the preliminary order of forfeiture, including, but not
28 limited to, the address of any real property, the exact
29 dollar amount of any money, negotiable instrument or
30 securities and the make, model, year and license plate number
31 of any vehicle.

32 (2) A statement that either:

33 (i) a petition contesting forfeiture must be filed
34 within 60 days of the date of receipt of certified mail
35 or personal service; or

36 (ii) in the case the service fails, a petition
37 contesting forfeiture must be filed within 60 days of the
38 date of final publication of substitute notice.

39 (3) A statement describing the required contents of a
40 petition contesting forfeiture as set forth in subsection
41 (h).

42 (4) The name and contact information for the
43 Commonwealth attorney to be served with the petition.

44 (5) The signature of the Attorney General, Deputy
45 Attorney General, district attorney, deputy district attorney
46 or assistant district attorney.

47 (c) Means of serving notice.--Notice shall be served
48 personally or by certified mail on the potential claimant.

49 (d) Substitute notice.--If a potential claimant cannot be
50 personally served or located within the jurisdiction of the
51 court, notice of the petition shall be provided by the

1 Commonwealth through an advertisement reasonably calculated to
2 provide notice to the potential claimant:

3 (1) in a newspaper of general circulation published in
4 the county where the property was seized, once a week for two
5 successive weeks; and

6 (2) on the publicly accessible Internet website of the
7 prosecuting attorney for a period of two weeks.

8 (e) Potential claimants not in jurisdiction.--For purposes
9 of this section, it shall be deemed that a potential claimant
10 cannot be located in the jurisdiction of the court if:

11 (1) A copy of the petition is mailed to the potential
12 claimant's last known address by certified mail and is
13 returned without delivery.

14 (2) Personal service is attempted once but cannot be
15 made at the last known address.

16 (3) A copy of the petition is left at the last known
17 address.

18 (f) Proof of notice.--The Commonwealth shall file proof of
19 notice with the court. No forfeiture order shall be final until
20 the court finds that such proof satisfies the notice
21 requirements under subsections (a), (b), (c), (d) and (e).

22 (g) Petitioning for hearing.--A person, other than the
23 defendant, asserting a legal interest in property subject to a
24 preliminary order of forfeiture under section 5803(g) (relating
25 to process for criminal asset forfeiture) may, within 60 days of
26 the date of receipt of certified mail or personal service or, in
27 the case such service fails, the date of final publication of
28 substitute notice, petition the court for a hearing to
29 adjudicate the validity of the person's alleged interest in the
30 property.

31 (h) Contents of third-party claimant petition.--The petition
32 shall:

33 (1) Be signed by the petitioner under penalty of
34 perjury.

35 (2) Describe the nature and extent of the petitioner's
36 right, title or interest in the property, the time and
37 circumstances of the petitioner's acquisition of the right,
38 title or interest in the property and any additional facts
39 supporting the petitioner's claim.

40 (3) Identify the relief sought, which may include, but
41 need not be limited to:

42 (i) Return of the petitioner's property.

43 (ii) Reimbursement for the petitioner's legal
44 interest in the forfeited property.

45 (iii) Severance of the petitioner's property from
46 the forfeited property.

47 (iv) Retention of the property by the petitioner
48 subject to a lien in favor of the State to the extent of
49 the forfeitable interest.

50 (v) Any relief the court deems appropriate and just.

51 (i) Ancillary proceeding in general.--

1 (1) If a third party claimant timely files a petition
2 asserting a legal interest in property to be forfeited, the
3 court shall conduct an ancillary proceeding, no later than
4 four months after entry of the preliminary order of
5 forfeiture. The hearing shall be a civil proceeding and the
6 petitioner shall have a right to a jury trial.

7 (2) The hearing on the petition shall, to the extent
8 practicable and consistent with the interests of justice, be
9 held within 30 days of the filing of the petition. The court
10 may consolidate the hearing on the petition with a hearing on
11 any other petition filed under this subsection related to the
12 same underlying offense.

13 (3) At the hearing, the petitioner may testify and
14 present evidence and witnesses on the petitioner's own
15 behalf, and cross-examine witnesses who appear at the
16 hearing. The Commonwealth may present evidence and witnesses
17 in rebuttal and in defense of its claim to forfeit the
18 property and may cross-examine witnesses who appear at the
19 hearing. In addition to testimony and evidence presented at
20 the hearing, the court shall consider any relevant portions
21 of the record of the criminal case that resulted in the order
22 of forfeiture.

23 (4) If, after the hearing, the court determines that the
24 petitioner has established by a preponderance of the evidence
25 that:

26 (i) the petitioner has a legal right, title or
27 interest in the property and such right, title or
28 interest renders the preliminary order of forfeiture
29 invalid in whole or in part because the right, title or
30 interest was vested in the petitioner rather than the
31 defendant or was superior to any right, title or interest
32 of the defendant at the time of the commission of the
33 acts which gave rise to the forfeiture of the property
34 under this chapter; or

35 (ii) the petitioner is a bona fide purchaser for
36 value of the right, title or interest in the property and
37 was at the time of purchase reasonably without cause to
38 believe that the property was subject to forfeiture under
39 this section.

40 The court shall amend the order of forfeiture in accordance
41 with its determination.

42 (j) Entering a final order.--

43 (1) When the ancillary proceeding ends, the court shall
44 enter a final order of forfeiture by amending the preliminary
45 order as necessary to account for any third-party rights or
46 interests.

47 (2) If no third party files a timely petition, the
48 preliminary order shall become the final order of forfeiture.

49 § 5805. Interaction with the Federal Government.

50 (a) Prohibition on adoptive seizures.--State law enforcement
51 authorities shall not refer seized property to a Federal agency

1 seeking the adoption by the Federal agency of the seized
2 property. Nothing in this chapter shall be construed to prohibit
3 the Federal Government, or any of its agencies, from seeking
4 Federal forfeiture.

5 (b) Sharing of seized property.--All property, money or
6 other things of value received by a State law enforcement
7 authority under Federal law which authorizes the sharing or
8 transfer of all or a portion of forfeited property or the
9 proceeds of the sale of forfeited property to a State law
10 enforcement authority shall be promptly transferred, sold and
11 deposited as set forth in section 5803(e), (f), (g), (h) and (i)
12 (relating to process for criminal asset forfeiture), if Federal
13 law prohibits compliance with section 5803(e), (f), (g), (h) and
14 (i), State law enforcement authorities shall not seek forfeited
15 property or proceeds of the sale of forfeited property shared or
16 transferred under Federal law.

17 (c) Civil and criminal liability.--Any law enforcement
18 authority that violates subsection (a) is civilly liable to the
19 State for three times the amount of the forfeiture diverted and
20 for costs of suit and reasonable attorney fees. Any damages
21 awarded to the State shall be paid to the State Treasury to the
22 credit of the General Fund. Any agent, including a State law
23 enforcement officer who is detached to, deputized or
24 commissioned by, or working in conjunction with a Federal law
25 enforcement authority, who knowingly transfers or otherwise
26 trades seized property in violation of subsection (a) or who
27 receives property, money or other things of value under
28 subsection (b) and knowingly fails to transfer such property in
29 accordance with that subsection is guilty of a misdemeanor of
30 the second degree.

31 Section 8. Sections 6801 and 6802(a), (f), (j) and (k) of
32 Title 42 are amended to read:

33 § 6801. Controlled substances forfeiture.

34 [(a) Forfeitures generally.--The following shall be subject
35 to forfeiture to the Commonwealth and no property right shall
36 exist in them:

37 (1) All drug paraphernalia, controlled substances or
38 other drugs which have been manufactured, distributed,
39 dispensed or acquired in violation of the act of April 14,
40 1972 (P.L.233, No.64), known as The Controlled Substance,
41 Drug, Device and Cosmetic Act.

42 (2) All raw materials, products and equipment of any
43 kind which are used, or intended for use, in manufacturing,
44 compounding, processing, delivering, importing or exporting
45 any controlled substance or other drug in violation of The
46 Controlled Substance, Drug, Device and Cosmetic Act.

47 (3) All property which is used, or intended for use, as
48 a container for property described in paragraph (1) or (2).

49 (4) All conveyances, including aircraft, vehicles or
50 vessels, which are used or are intended for use to transport,
51 or in any manner to facilitate the transportation, sale,

1 receipt, possession or concealment of, property described in
2 paragraph (1) or (2), except that:

3 (i) no conveyance used by any person as a common
4 carrier in the transaction of business as a common
5 carrier shall be forfeited under the provisions of this
6 section unless it shall appear that the owner or other
7 person in charge of such conveyance was a consenting
8 party or privy to a violation of The Controlled
9 Substance, Drug, Device and Cosmetic Act;

10 (ii) no conveyance shall be forfeited under the
11 provisions of this section by reason of any act or
12 omission established by the owner thereof to have been
13 committed or omitted without his knowledge or consent,
14 which absence of knowledge or consent must be reasonable
15 under the circumstances presented;

16 (iii) no bona fide security interest retained or
17 acquired under 13 Pa.C.S. (relating to commercial code)
18 by any merchant dealing in new or used aircraft, vehicles
19 or vessels, or retained or acquired by any licensed or
20 regulated finance company, bank or lending institution,
21 or by any other business regularly engaged in the
22 financing of, or lending on the security of, such
23 aircraft, vehicles or vessels, shall be subject to
24 forfeiture or impairment; and

25 (iv) no conveyance shall be forfeited under this
26 section for violation of section 13(a)(31) of The
27 Controlled Substance, Drug, Device and Cosmetic Act.

28 (5) All books, records and research, including formulas,
29 microfilm, tapes and data, which are used or intended for use
30 in violation of The Controlled Substance, Drug, Device and
31 Cosmetic Act.

32 (6) (i) All of the following:

33 (A) Money, negotiable instruments, securities or
34 other things of value furnished or intended to be
35 furnished by any person in exchange for a controlled
36 substance in violation of The Controlled Substance,
37 Drug, Device and Cosmetic Act, and all proceeds
38 traceable to such an exchange.

39 (B) Money, negotiable instruments, securities or
40 other things of value used or intended to be used to
41 facilitate any violation of The Controlled Substance,
42 Drug, Device and Cosmetic Act.

43 (C) Real property used or intended to be used to
44 facilitate any violation of The Controlled Substance,
45 Drug, Device and Cosmetic Act, including structures
46 or other improvements thereon, and including any
47 right, title and interest in the whole or any lot or
48 tract of land and any appurtenances or improvements,
49 which is used, or intended to be used, in any manner
50 or part, to commit, or to facilitate the commission
51 of, a violation of The Controlled Substance, Drug,

1 Device and Cosmetic Act, and things growing on,
2 affixed to and found in the land.

3 (ii) No property shall be forfeited under this
4 paragraph, to the extent of the interest of an owner, by
5 reason of any act or omission established by the owner to
6 have been committed or omitted without the knowledge or
7 consent of that owner. Such money and negotiable
8 instruments found in close proximity to controlled
9 substances possessed in violation of The Controlled
10 Substance, Drug, Device and Cosmetic Act shall be
11 rebuttably presumed to be proceeds derived from the
12 selling of a controlled substance in violation of The
13 Controlled Substance, Drug, Device and Cosmetic Act.

14 (iii) No valid lien or encumbrance on real property
15 shall be subject to forfeiture or impairment under this
16 paragraph. A lien which is fraudulent or intended to
17 avoid forfeiture under this section shall be invalid.

18 (7) Any firearms, including, but not limited to, rifles,
19 shotguns, pistols, revolvers, machine guns, zip guns or any
20 type of prohibited offensive weapon, as that term is defined
21 in 18 Pa.C.S. (relating to crimes and offenses), which are
22 used or intended for use to facilitate a violation of The
23 Controlled Substance, Drug, Device and Cosmetic Act. Such
24 operable firearms as are found in close proximity to
25 illegally possessed controlled substances shall be rebuttably
26 presumed to be used or intended for use to facilitate a
27 violation of The Controlled Substance, Drug, Device and
28 Cosmetic Act. All weapons forfeited under this section shall
29 be immediately destroyed by the receiving law enforcement
30 agency.

31 (b) Process and seizure.--Property subject to forfeiture
32 under this chapter may be seized by the law enforcement
33 authority upon process issued by any court of common pleas
34 having jurisdiction over the property. Seizure without process
35 may be made if:

36 (1) the seizure is incident to an arrest or a search
37 under a search warrant or inspection under an administrative
38 inspection warrant;

39 (2) the property subject to seizure has been the subject
40 of a prior judgment in favor of the Commonwealth in a
41 criminal injunction or forfeiture proceeding under this
42 chapter;

43 (3) there is probable cause to believe that the property
44 is dangerous to health or safety; or

45 (4) there is probable cause to believe that the property
46 has been used or is intended to be used in violation of The
47 Controlled Substance, Drug, Device and Cosmetic Act.

48 (c) Seizure without process.--In the event seizure without
49 process occurs, as provided herein, proceedings for the issuance
50 thereof shall be instituted forthwith.

51 (d) Custody of property.--Property taken or detained under

1 this section shall not be subject to replevin, but is deemed to
2 be in the custody of the law enforcement authority subject only
3 to the orders and decrees of the court of common pleas having
4 jurisdiction over the forfeiture proceedings and of the district
5 attorney or the Attorney General. When property is seized under
6 this chapter, the law enforcement authority shall place the
7 property under seal and either:

8 (1) remove the property to a place designated by it; or

9 (2) require that the district attorney or Attorney
10 General take custody of the property and remove it to an
11 appropriate location for disposition in accordance with law.

12 (e) Use of property held in custody.--Whenever property is
13 forfeited under this chapter, the property shall be transferred
14 to the custody of the district attorney, if the law enforcement
15 authority seizing the property has local or county jurisdiction,
16 or the Attorney General, if the law enforcement authority
17 seizing the property has Statewide jurisdiction. The district
18 attorney or the Attorney General, where appropriate, may:

19 (1) Retain the property for official use.

20 (2) Sell any forfeited property which is not required to
21 be destroyed by law and which is not harmful to the public,
22 but the proceeds from any such sale shall be used to pay all
23 proper expenses of the proceedings for forfeiture and sale,
24 including expenses of seizure, maintenance of custody,
25 advertising and court costs. The balance of the proceeds
26 shall be dealt with in accordance with subsections (f) and
27 (g).

28 (f) Use of cash or proceeds of property.--Cash or proceeds
29 of forfeited property transferred to the custody of the district
30 attorney pursuant to subsection (e) shall be placed in the
31 operating fund of the county in which the district attorney is
32 elected. The appropriate county authority shall immediately
33 release from the operating fund, without restriction, a like
34 amount for the use of the district attorney enforcing the
35 provisions of The Controlled Substance, Drug, Device and
36 Cosmetic Act. The entity having budgetary control shall not
37 anticipate future forfeitures or proceeds therefrom in adoption
38 and approval of the budget for the district attorney.

39 (g) Distribution of property among law enforcement
40 authorities.--If both municipal and State law enforcement
41 authorities were substantially involved in effecting the
42 seizure, the court having jurisdiction over the forfeiture
43 proceedings shall equitably distribute the property between the
44 district attorney and the Attorney General.

45 (h) Authorization to utilize property.--The district
46 attorney and the Attorney General shall utilize forfeited
47 property or proceeds thereof for the purpose of enforcing the
48 provisions of The Controlled Substance, Drug, Device and
49 Cosmetic Act. In appropriate cases, the district attorney and
50 the Attorney General may designate proceeds from forfeited
51 property to be utilized by community-based drug and crime-

1 fighting programs and for relocation and protection of witnesses
2 in criminal cases.

3 (i) Annual audit of forfeited property.--It shall be the
4 responsibility of every county in this Commonwealth to provide,
5 through the controller, board of auditors or other appropriate
6 auditor and the district attorney, an annual audit of all
7 forfeited property and proceeds obtained under this section. The
8 audit shall not be made public but shall be submitted to the
9 Office of Attorney General. The county shall report all
10 forfeited property and proceeds obtained under this section and
11 the disposition thereof to the Attorney General by September 30
12 of each year.

13 (j) Annual report; confidential information regarding
14 property.--The Attorney General shall annually submit a report,
15 to the Appropriations and Judiciary Committees of the Senate and
16 to the Appropriations and Judiciary Committees of the House of
17 Representatives, specifying the forfeited property or proceeds
18 thereof obtained under this section. The report shall give an
19 accounting of all proceeds derived from the sale of forfeited
20 property and the use made of unsold forfeited property. The
21 Attorney General shall adopt procedures and guidelines governing
22 the release of information by the district attorney to protect
23 the confidentiality of forfeited property or proceeds used in
24 ongoing drug enforcement activities.

25 (k) Proceeds and appropriations.--The proceeds or future
26 proceeds from forfeited property under this chapter shall be in
27 addition to any appropriation made to the Office of Attorney
28 General.] Forfeiture of property shall be authorized for
29 violation of the act of April 14, 1972 (P.L.233, No.64), known
30 as The Controlled Substance, Drug, Device and Cosmetic Act, and
31 conducted in accordance with Chapter 58 (relating to asset
32 forfeiture). No conveyance may be forfeited under this section
33 for a violation of section 13(a)(31) of The Controlled
34 Substance, Drug, Device and Cosmetic Act.

35 § 6802. Procedure with respect to seized property subject to
36 liens and rights of lienholders.

37 (a) General procedure.--The proceedings for the forfeiture
38 or condemnation of property, the sale of which is provided for
39 in this chapter, shall be in rem, in which the Commonwealth
40 shall be the plaintiff and the property the defendant. A
41 petition shall be filed in the court of common pleas of the
42 judicial district where the property is located, verified by
43 oath or affirmation of an officer or citizen, containing the
44 following:

- 45 (1) A description of the property seized.
- 46 (2) A statement of the time and place where seized.
- 47 (3) The owner, if known.
- 48 (4) The person or persons in possession, if known.
- 49 (5) An allegation that the property is subject to
50 forfeiture pursuant to section [6801(a) (relating to
51 controlled substances forfeiture) or] 6801.1(a) (relating to

terrorism forfeiture) and an averment of material facts upon which the forfeiture action is based.

(6) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth and condemned and be ordered sold according to law, unless cause be shown to the contrary.

* * *

(f) Preservation of the property subject for forfeiture.-- Upon application of the Commonwealth, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property described in section [6801(a) or] 6801.1(a) for forfeiture under this section either:

(1) upon the filing of an information or an indictment charging an offense in this Commonwealth for which criminal forfeiture may be ordered under this chapter and alleging that the property with respect to which the order is sought would be subject to forfeiture; or

(2) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that the Commonwealth will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

However, an order entered pursuant to this paragraph shall be effective for not more than 90 days unless extended by the court for good cause shown or unless an indictment or information described in paragraph (1) has been filed.

* * *

(j) Owner's burden of proof.--At the time of the hearing, if the Commonwealth produces evidence that the property in question was unlawfully used, possessed or otherwise subject to forfeiture under section [6801(a) or] 6801.1(a), the burden shall be upon the claimant to show:

(1) That the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale thereon.

(2) That the claimant lawfully acquired the property.

(3) That it was not unlawfully used or possessed by him. In the event that it shall appear that the property was unlawfully used or possessed by a person other than the claimant, then the claimant shall show that the unlawful use or possession was without his knowledge or consent. Such

1 absence of knowledge or consent must be reasonable under the
2 circumstances presented.

3 (k) Court-ordered release of property.--If a person claiming
4 the ownership of or right of possession to or claiming to be the
5 holder of a chattel mortgage or contract of conditional sale
6 upon the property, the disposition of which is provided for in
7 this section, prior to the sale presents a petition to the court
8 alleging over the property lawful ownership, right of
9 possession, a lien or reservation of title and if, upon public
10 hearing, due notice of which having been given to the Attorney
11 General or the district attorney, the claimant shall prove by
12 competent evidence to the satisfaction of the court that the
13 property was lawfully acquired, possessed and used by him or, it
14 appearing that the property was unlawfully used by a person
15 other than the claimant, that the unlawful use was without the
16 claimant's knowledge or consent, then the court may order the
17 property returned or delivered to the claimant. Such absence of
18 knowledge or consent must be reasonable under the circumstances
19 presented. Otherwise, it shall be retained for official use or
20 sold in accordance with section [6801(e) or] 6801.1(f).

21 Section 9. Sections 4909(c), 9405(a), (b), (c)(1), (d), (i)
22 and (j) and 9406 of Title 75 are amended to read:

23 § 4909. Transporting foodstuffs in vehicles used to transport
24 waste.

25 * * *

26 (c) Vehicle forfeiture.--Any vehicle or conveyance used in
27 the commission of an offense under this section shall be deemed
28 contraband and forfeited [to the Department of Environmental
29 Resources. The provisions of law relating to the seizure,
30 summary and judicial forfeiture, and condemnation of
31 intoxicating liquor shall apply to seizures and forfeitures
32 under this section. Proceeds from the sale of forfeited vehicles
33 or conveyances shall be deposited in the Solid Waste Abatement
34 Fund] in accordance with 42 Pa.C.S. Ch. 58 (relating to asset
35 forfeiture).

36 * * *

37 § 9405. Forfeitures; process and procedures.

38 (a) Subjects of forfeiture.--The following are subject to
39 forfeiture to the Commonwealth and no property right shall exist
40 in them:

41 (1) Any liquid fuels or fuels produced in or imported
42 into this Commonwealth by any distributor who does not
43 possess a valid liquid fuels tax permit or fuels permit as
44 required by section 9003 (relating to liquid fuels and fuels
45 permits; bond or deposit of securities), except liquid fuels
46 or fuels imported in barrels, drums or similar containers
47 with a capacity of not more than 55 gallons in each barrel,
48 drum or container.

49 (2) All conveyances, including vehicles or vessels, used
50 to transport liquid fuels or fuels as described in paragraph
51 (1). [except:

1 (i) no conveyance used by any person as a common
2 carrier in the transaction of business as a common
3 carrier is subject to forfeiture under this section
4 unless it appears that the owner or other person in
5 charge of the conveyance is a consenting party or privy
6 to a violation of Chapter 90 (relating to liquid fuels
7 and fuels tax); and

8 (ii) no bona fide security interest retained or
9 acquired under Title 13 (relating to commercial code) by
10 any merchant dealing in new or used vehicles or vessels,
11 or retained or acquired by any licensed or regulated
12 finance company, bank, lending institution or by any
13 other business regularly engaged in the financing of or
14 lending on the security of such vehicles or vessels,
15 shall be subject to forfeiture or impairment.] Forfeiture
16 of such conveyances shall be conducted in accordance with
17 42 Pa.C.S. Ch. 58 (relating to asset forfeiture).

18 (b) Method of seizure.--[Property] Liquid fuels or fuels
19 subject to forfeiture under this section may be seized by the
20 Department of Revenue upon process issued by any court of common
21 pleas having jurisdiction over the property. Seizure without
22 process may be made if the seizure is incident to an inspection
23 or arrest for a violation of this chapter or Chapter 90
24 (relating to liquid fuels and fuels tax).

25 (c) Limit on return of [property] liquid fuels or fuels.--

26 (1) No [property] liquid fuels or fuels seized in
27 accordance with this section, when in the custody of the
28 Department of Revenue, shall be seized or taken therefrom by
29 any writ of replevin or other judicial process unless a
30 petition for forfeiture is not timely filed.

31 * * *

32 (d) In rem proceedings.--The proceedings for the forfeiture
33 of any liquid fuels or fuels [or conveyances] seized under this
34 section shall be in rem. The Commonwealth shall be the plaintiff
35 and the property shall be the defendant. A petition shall be
36 filed, within five days after seizure, in the court of common
37 pleas of the county in which the property was seized by revenue
38 agents of the Department of Revenue, verified by oath or
39 affirmation of any revenue agent. In the event that the petition
40 is not filed within the time prescribed herein, the seized
41 property shall be immediately returned to the person from whom
42 seized or the owner thereof.

43 * * *

44 (i) Standard of proof.--The claimant shall have the burden
45 of proving that he is not subject to the provisions of this
46 section, but the burden of proof shall be upon the Commonwealth
47 to prove all other facts necessary for the forfeiture of the
48 property. In the event that the Commonwealth has not met its
49 burden by a preponderance of the evidence or the claimant has
50 proved that he is not subject to the provisions of this section,
51 the court shall order the property returned to the claimant;

1 otherwise, the court shall order the property forfeited to the
2 Commonwealth. [In the case of a motor vehicle, vessel or
3 conveyance, should the claimant prove to the satisfaction of the
4 court that he is the registered owner of the motor vehicle,
5 vessel or conveyance and that he did not know or have reason to
6 know that it was being used to transport liquid fuels or fuels
7 in violation of the provisions of section 9404 (relating to
8 violations and penalties) or 9019 (relating to diesel fuel
9 importers and transporters; prohibiting use of dyed diesel fuel
10 on highways; violations and penalties), the court in its
11 discretion may order the motor vehicle, vessel or conveyance
12 returned to the claimant.

13 (j) Encumbered motor vehicle.--In the case of a motor
14 vehicle, should the claimant prove that he holds a valid
15 encumbrance upon such motor vehicle, notice of which encumbrance
16 has been duly noted on the certificate of title to the motor
17 vehicle in accordance with the provisions of Chapter 11
18 (relating to certificate of title and security interests), the
19 forfeiture shall be subject to such encumbrance as of the date
20 of the seizure less prepaid or unearned interest. Before the
21 motor vehicle may be sold, exchanged or otherwise transferred or
22 retained for use by the Commonwealth, the outstanding amount of
23 the encumbrance shall be paid to the claimant or possession of
24 the motor vehicle shall be turned over to the claimant who shall
25 expose the same to public sale and shall pay over to the
26 Commonwealth any amount realized in excess of the outstanding
27 amount of such encumbrance less the reasonable costs incurred by
28 claimant in conducting such sale.]

29 § 9406. Disposition of fines and forfeitures.

30 All fines imposed under this chapter and the net proceeds
31 received from the sale of forfeited [property] liquid fuels or
32 fuels shall be payable to the Commonwealth and credited to the
33 Motor License Fund.

34 Section 10. Notwithstanding any other provision of law to
35 the contrary, the following forfeitures shall be conducted in
36 accordance with 42 Pa.C.S. Ch. 58:

37 (1) The forfeiture of property specified in section 1 of
38 the act of July 3, 1941 (P.L.263, No.121), entitled "An act
39 providing for the forfeiture and condemnation of vehicles
40 used to store, possess or transport narcotics or drugs, the
41 possession or transportation of which is in violation of
42 law."

43 (2) The seizure of property specified in sections 211(a)
44 (3) and 601 of the act of April 12, 1951 (P.L.90, No.21),
45 known as the Liquor Code.

46 (3) The forfeiture of property specified in section 1285
47 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
48 Reform Code of 1971.

49 (4) The forfeiture of property specified in section 614
50 of the act of July 7, 1980 (P.L.380, No.97), known as the
51 Solid Waste Management Act.

1 (5) The forfeiture of property specified in section 1715
2 of the act of July 28, 1988 (P.L.556, No.101), known as the
3 Municipal Waste Planning, Recycling and Waste Reduction Act.

4 (6) The forfeiture of property specified in section 1 of
5 the act of December 1, 2004 (P.L.1766, No.227), entitled "An
6 act authorizing cities of the first class that have adopted a
7 home rule charter to enforce ordinances, rules and
8 regulations prohibiting dumping or disposal of waste, trash
9 or debris."

10 Section 11. Repeals are as follows:

11 (1) The General Assembly finds that the repeals under
12 paragraphs (2) and (3) are necessary to effectuate the
13 addition of 42 Pa.C.S. Ch. 58.

14 (2) Sections 602 and 603(a) and (b) of the act of April
15 12, 1951 (P.L.90, No.21), known as the Liquor Code, are
16 repealed to the extent of any inconsistency with this act.

17 (3) The following acts and parts of acts are repealed
18 absolutely:

19 (i) Sections 2, 3, 4 and 5 of the act of July 3,
20 1941 (P.L.263, No.121), entitled "An act providing for
21 the forfeiture and condemnation of vehicles used to
22 store, possess or transport narcotics or drugs, the
23 possession or transportation of which is in violation of
24 law."

25 (ii) Section 603(c) of the act of April 12, 1951
26 (P.L.90, No.21), known as the Liquor Code.

27 (iii) Section 1285(f), (g), (h), (i), (j), (k), (l),
28 (m) and (n) of the act of March 4, 1971 (P.L.6, No.2),
29 known as the Tax Reform Code of 1971.

30 Section 12. This act shall take effect in 90 days.