

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 861 Session of
1999

INTRODUCED BY KASUNIC, O'PAKE, BOSCOLA, COSTA, MELLOW, RHOADES
AND STAPLETON, APRIL 28, 1999

REFERRED TO JUDICIARY, APRIL 28, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 loss of property rights to the Commonwealth.

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

6 Section 1. Section 6801(a)(6), (f) and (g) of Title 42 of
7 the Pennsylvania Consolidated Statutes are amended to read:

8 § 6801. Loss of property rights to Commonwealth.

9 (a) Forfeitures generally.--The following shall be subject
10 to forfeiture to the Commonwealth and no property right shall
11 exist in them:

12 * * *

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

14 (A) Money, negotiable instruments, securities or
15 other things of value furnished or intended to be
16 furnished by any person in exchange for a controlled
17 substance in violation of The Controlled Substance,
18 Drug, Device and Cosmetic Act, and all proceeds

1 traceable to such an exchange.

2 (B) Money, negotiable instruments, securities or
3 other things of value used or intended to be used to
4 facilitate any violation of The Controlled Substance,
5 Drug, Device and Cosmetic Act.

6 (C) Real property used or intended to be used to
7 facilitate any violation of The Controlled Substance,
8 Drug, Device and Cosmetic Act, including structures
9 or other improvements thereon, and including any
10 right, title and interest in the whole or any lot or
11 tract of land and any appurtenances or improvements,
12 which is used, or intended to be used, in any manner
13 or part, to commit, or to facilitate the commission
14 of, a violation of The Controlled Substance, Drug,
15 Device and Cosmetic Act, and things growing on,
16 affixed to and found in the land.

17 (D) Any property described in clause (A), (B) or
18 (C) where the property was transferred within six
19 months of seizure under circumstances which
20 reasonably lead to a finding that the transfer was
21 made to avoid forfeiture of the property under this
22 section.

23 (ii) [No] (A) Except as otherwise provided in
24 clause (B), no property shall be forfeited under this
25 paragraph, to the extent of the interest of an owner,
26 by reason of any act or omission established by the
27 owner to have been committed or omitted without the
28 knowledge or consent of that owner. Such money and
29 negotiable instruments found in close proximity to
30 controlled substances possessed in violation of The

1 Controlled Substance, Drug, Device and Cosmetic Act
2 shall be rebuttably presumed to be proceeds derived
3 from the selling of a controlled substance in
4 violation of The Controlled Substance, Drug, Device
5 and Cosmetic Act.

6 (B) The owner-lessor of real property used or
7 intended to be used by a lessee to facilitate any
8 violation of The Controlled Substance, Drug, Device
9 and Cosmetic Act shall forfeit all right, title and
10 interest in the real property where the owner-lessor
11 has actual or imputed knowledge of the lessee's acts.

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

16 * * *

17 (f) Use of cash or proceeds of property.--[Cash] Except as
18 provided in subsection (g), cash or proceeds of forfeited
19 property transferred to the custody of the district attorney
20 pursuant to subsection (e) shall be placed in the operating fund
21 of the county in which the district attorney is elected. The
22 appropriate county authority shall immediately release from the
23 operating fund, without restriction, a like amount for the use
24 of the district attorney enforcing the provisions of The
25 Controlled Substance, Drug, Device and Cosmetic Act. The entity
26 having budgetary control shall not anticipate future forfeitures
27 or proceeds therefrom in adoption and approval of the budget for
28 the district attorney.

29 (g) Distribution of [property among law enforcement
30 authorities] cash or proceeds of property.--

1 (1) If both municipal and State law enforcement
2 authorities were substantially involved in effecting the
3 seizure, the court having jurisdiction over the forfeiture
4 proceedings shall equitably distribute the property allocated
5 to law enforcement authorities between the district attorney
6 and the Attorney General.

7 (2) Twenty-five percent of the cash or proceeds of
8 property shall be distributed to nonprofit community-based
9 organizations formed primarily to combat drug abuse within
10 the county where the seizure was made, which provide
11 educational, health care, substance abuse prevention, housing
12 and community development services.

13 * * *

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