

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 237 Session of
2007

INTRODUCED BY KASUNIC, COSTA, STOUT, BOSCOLA, STACK, FONTANA,
O'PAKE, LAVALLE, RAFFERTY, MUSTO, KITCHEN AND RHOADES,
MARCH 8, 2007

REFERRED TO JUDICIARY, MARCH 8, 2007

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. Controlled substances forfeiture.

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) that was transferred within six months of seizure
19 under circumstances which reasonably lead to a
20 finding that the transfer was made to avoid
21 forfeiture of the property under this section.

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

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

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

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

15 * * *

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

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

30 (1) If both municipal and State law enforcement

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

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

12 * * *

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