

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 8

Session of 2017

INTRODUCED BY FOLMER, SCARNATI, LEACH, VULAKOVICH, RESCHENTHALER, WAGNER, LAUGHLIN, STEFANO, BREWSTER, BARTOLOTTA, BOSCOLA, MENSCH AND BROWNE, JANUARY 26, 2017

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, APRIL 18, 2017

AN ACT

1 Amending Titles 4 (Amusements), 18 (Crimes and Offenses), 30
2 (Fish), 42 (Judiciary and Judicial Procedure) and 75
3 (Vehicles) of the Pennsylvania Consolidated Statutes,
4 extensively revising forfeiture provisions as follows: in
5 administration and enforcement relating to gaming, further
6 providing for prohibited acts and penalties; in inchoate
7 crimes, further providing for the offense of manufacture,
8 distribution, use or possession of devices for theft of
9 telecommunications services; in assault, further providing
10 for the offense of terrorism; in loss of property rights
11 relating to sexual offenses, further providing for general
12 rule and repealing provisions relating to process and
13 seizure, to custody of property and to disposal of property;
14 in forgery and fraudulent practices, further providing for
15 the offenses of copying and recording devices and for
16 trademark counterfeiting; in riot, disorderly conduct and
17 related offenses, further providing for the offense of
18 gambling devices, gambling, etc.; in wiretapping and
19 electronic surveillance, further providing for seizure and
20 forfeiture of electronic, mechanical or other devices; in
21 minors, further providing for sentencing and penalties for
22 trafficking drugs to minors; in nuisances, further providing
23 for the offense of scattering rubbish; in other offenses,
24 further providing for drug trafficking sentencing and
25 penalties; in vehicle chop shop and illegally obtained and
26 altered property, further providing for loss of property
27 rights to Commonwealth and repealing provisions relating to
28 procedure with respect to seized property subject to liens
29 and rights of lienholders; in enforcement relating to Fish
30 and Boat Code, further providing for forfeiture of fish and
31 devices; in actions, proceedings and other matters generally
32 relating to Judicial Code, providing for forfeiture of

1 assets; in forfeitures, repealing provisions relating to  
2 controlled substances forfeiture, to terrorism forfeiture and  
3 to procedure with respect to seized property subject to liens  
4 and rights of lienholders; in size, weight and load relating  
5 to Vehicle Code, further providing for transporting  
6 foodstuffs in vehicles used to transport waste; in liquid  
7 fuels and fuel use tax enforcement, further providing for  
8 forfeitures and process and procedures and for disposition of  
9 fines and forfeitures; providing for conduct of forfeiture;  
10 and making repeals of provisions of the Liquor Code and  
11 another act relating to certain forfeiture of property.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

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

16 § 1518. Prohibited acts; penalties.

17 \* \* \*

18 (f) Property subject to seizure, confiscation, destruction  
19 or forfeiture.--Any equipment, device or apparatus, money,  
20 material, gaming proceeds or substituted proceeds or real or  
21 personal property used, obtained or received or any attempt to  
22 use, obtain or receive the device, apparatus, money, material,  
23 proceeds or real or personal property in violation of this part  
24 shall be subject to [seizure, confiscation, destruction or  
25 forfeiture.] the provisions of 42 Pa.C.S. §§ 5803 (relating to  
26 asset forfeiture), 5805 (relating to forfeiture procedure), 5806  
27 (relating to motion for return of property), 5807 (relating to  
28 restrictions on use), 5807.1 (relating to prohibition on  
29 adoptive seizures) and 5808 (relating to exceptions).

30 Section 2. Section 910(c.1) of Title 18 is amended to read:

31 § 910. Manufacture, distribution, use or possession of devices  
32 for theft of telecommunications services.

33 \* \* \*

34 (c.1) Forfeiture of unlawful telecommunication devices.--  
35 Upon conviction of a defendant under this section, the court

1 may, in addition to any other sentence authorized by law, direct  
2 that the defendant forfeit any unlawful telecommunication  
3 devices in the defendant's possession or control which were  
4 involved in the violation for which the defendant was convicted.  
5 The forfeiture shall be conducted in accordance with 42 Pa.C.S.  
6 §§ 5803 (relating to asset forfeiture), 5805 (relating to  
7 forfeiture procedure), 5806 (relating to motion for return of  
8 property), 5807 (relating to restrictions on use), 5807.1  
9 (relating to prohibition on adoptive seizures) and 5808  
10 (relating to exceptions).

11 \* \* \*

12 Section 3. Section 2717 of Title 18 is amended by adding a  
13 subsection to read:

14 § 2717. Terrorism.

15 \* \* \*

16 (b.1) Forfeiture.--Each foreign or domestic asset related to  
17 terrorism, including the following, shall be subject to  
18 forfeiture under 42 Pa.C.S. §§ 5803 (relating to asset  
19 forfeiture), 5805 (relating to forfeiture procedure), 5806  
20 (relating to motion for return of property), 5807 (relating to  
21 restrictions on use), 5807.1 (relating to prohibition on  
22 adoptive seizures) and 5808 (relating to exceptions) and no  
23 property right shall exist in the asset:

24 (1) Each foreign or domestic asset:

25 (i) Of an individual, entity or organization engaged  
26 in planning or perpetrating an act in this Commonwealth  
27 which violates this section and each foreign or domestic  
28 asset affording a person a source of influence over the  
29 entity or organization.

30 (ii) Acquired or maintained by a person with the

1 intent and for the purpose of supporting, planning,  
2 conducting or concealing an act in this Commonwealth  
3 which violates this section.

4 (iii) Derived from, involved in or used or intended  
5 to be used to commit an act in this Commonwealth which  
6 violates this section.

7 (2) Each asset within this Commonwealth:

8 (i) Of an individual, entity or organization engaged  
9 in planning or perpetrating an act which violates this  
10 section.

11 (ii) Acquired or maintained with the intent and for  
12 the purpose of supporting, planning, conducting or  
13 concealing an act which violates this section.

14 (iii) Derived from, involved in or used or intended  
15 to be used to commit an act which violates this section.

16 \* \* \*

17 Section 4. Section 3141 of Title 18 is amended to read:

18 § 3141. General rule.

19 A person:

20 (1) convicted under section 3121 (relating to rape),  
21 3122.1 (relating to statutory sexual assault), 3123 (relating  
22 to involuntary deviate sexual intercourse), 3124.1 (relating  
23 to sexual assault), 3125 (relating to aggravated indecent  
24 assault) or 3126 (relating to indecent assault); or

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

28 may be required to forfeit property rights in any property or  
29 assets used to implement or facilitate commission of the crime  
30 or crimes of which the person has been convicted. [Such property

1 may include, but is not limited to, a computer or computers,  
2 telephone equipment, firearms, licit or illicit prescription  
3 drugs or controlled substances, a motor vehicle or such other  
4 property or assets as determined by the court of common pleas to  
5 have facilitated the person's criminal misconduct.] The  
6 forfeiture shall be conducted in accordance with 42 Pa.C.S. §§  
7 5803 (relating to asset forfeiture), 5805 (relating to  
8 forfeiture procedure), 5806 (relating to motion for return of  
9 property), 5807 (relating to restrictions on use), 5807.1  
10 (relating to prohibition on adoptive seizures) and 5808  
11 (relating to exceptions).

12 Section 5. Sections 3142, 3143 and 3144 of Title 18 are  
13 repealed:

14 [§ 3142. Process and seizure.

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

19 (b) Seizure without process.--Seizure without process may be  
20 made if the seizure is incident to an arrest or a search under a  
21 search warrant and there is probable cause to be believe that  
22 the property was or is material to the charges for which the  
23 arrest or search warrant was issued. In seizures without  
24 process, proceedings for the issuance thereof shall be  
25 instituted immediately.

26 (c) Return of property.--Property belonging to someone other  
27 than the convicted sex offender or registrant shall be returned  
28 if the offense was committed without the knowledge or consent of  
29 the owner.

30 § 3143. Custody of property.

1 Property taken or detained under this subchapter is deemed to  
2 be the property of the law enforcement authority having custody  
3 thereof and is subject only to the court of common pleas having  
4 jurisdiction over the criminal or forfeiture proceedings, the  
5 district attorney in the matter or the Attorney General.

6 § 3144. Disposal of property.

7 Property taken or detained pursuant to the provisions of this  
8 subchapter shall be sold in the manner of property forfeited  
9 under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net  
10 proceeds, as determined by the law enforcement authority having  
11 custody thereof, shall be utilized for investigation or  
12 prosecution of sexual offenses or donated to nonprofit  
13 charitable institutions which provide counseling and other  
14 assistance to victims of sexual offenses.]

15 Section 6. Sections 4116(i), 4119(f)(2)(i), 5513(b), 5707,  
16 6314(f), 6501(b)(5) and (d), 7508(e) and 7707 of Title 18 are  
17 amended to read:

18 § 4116. Copying; recording devices.

19 \* \* \*

20 (i) Forfeiture.--

21 (1) No property right shall exist in any property used  
22 or intended for use in the commission of a violation of this  
23 section or in any proceeds traceable to a violation of this  
24 section, and the same shall be deemed contraband and  
25 forfeited in accordance with the provisions [set forth in  
26 section 6501(d) (relating to scattering rubbish).] of 42  
27 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805  
28 (relating to forfeiture procedure), 5806 (relating to motion  
29 for return of property), 5807 (relating to restrictions on  
30 use), 5807.1 (relating to prohibition on adoptive seizures)

1 and 5808 (relating to exceptions).

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

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

9 § 4119. Trademark counterfeiting.

10 \* \* \*

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

12 \* \* \*

13 (2) (i) All seized personal property and property  
14 constituting or derived from any proceeds referenced in  
15 paragraph (1) shall be forfeited in accordance with [the  
16 procedures set forth in section 6501(d) (relating to  
17 scattering rubbish).] 42 Pa.C.S. §§ 5803 (relating to  
18 asset forfeiture), 5805 (relating to forfeiture  
19 procedure), 5806 (relating to motion for return of  
20 property), 5807 (relating to restrictions on use), 5807.1  
21 (relating to prohibition on adoptive seizures) and 5808  
22 (relating to exceptions).

23 \* \* \*

24 § 5513. Gambling devices, gambling, etc.

25 \* \* \*

26 (b) Confiscation of gambling devices.--Any gambling device  
27 possessed or used in violation of the provisions of subsection  
28 (a) [of this section] shall be seized and forfeited to the  
29 Commonwealth. [All provisions of law relating to the seizure,  
30 summary and judicial forfeiture, and condemnation of

1 intoxicating liquor shall apply to seizures and forfeitures  
2 under the provisions of this section.] The forfeiture shall be  
3 conducted in accordance with 42 Pa.C.S. §§ 5803 (relating to  
4 asset forfeiture), 5805 (relating to forfeiture procedure), 5806  
5 (relating to motion for return of property), 5807 (relating to  
6 restrictions on use), 5807.1 (relating to prohibition on  
7 adoptive seizures) and 5808 (relating to exceptions).

8 \* \* \*

9 § 5707. Seizure and forfeiture of electronic, mechanical or  
10 other devices.

11 Any electronic, mechanical or other device possessed, used,  
12 sent, distributed, manufactured, or assembled in violation of  
13 this chapter is hereby declared to be contraband and may be  
14 seized and forfeited to the Commonwealth[.] in accordance with  
15 42 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805  
16 (relating to forfeiture procedure), 5806 (relating to motion for  
17 return of property), 5807 (relating to restrictions on use),  
18 5807.1 (relating to prohibition on adoptive seizures) and 5808  
19 (relating to exceptions).

20 § 6314. Sentencing and penalties for trafficking drugs to  
21 minors.

22 \* \* \*

23 (f) Forfeiture.--Assets against which a petition seeking  
24 forfeiture [petition] has been filed and is pending or against  
25 which the Commonwealth has indicated an intention to file a  
26 [forfeiture] petition seeking forfeiture shall not be subject to  
27 a fine under this section.

28 \* \* \*

29 § 6501. Scattering rubbish.

30 \* \* \*



1 (b) Penalty.--

2 \* \* \*

3 (5) Any vehicle, equipment or conveyance, including any  
4 private automobile and small truck, used for the  
5 transportation or disposal of trash, garbage or debris in the  
6 commission of a second or subsequent offense under subsection  
7 (a) (3) may be deemed contraband and forfeited in accordance  
8 with [the provisions set forth in this section.] 42 Pa.C.S.  
9 §§ 5803 (relating to asset forfeiture), 5805 (relating to  
10 forfeiture procedure), 5806 (relating to motion for return of  
11 property), 5807 (relating to restrictions on use), 5807.1  
12 (relating to prohibition on adoptive seizures) and 5808  
13 (relating to exceptions).

14 \* \* \*

15 [(d) Forfeiture.--

16 (1) Property subject to forfeiture under this section  
17 may be seized by the law enforcement authority upon process  
18 issued by any court of common pleas having jurisdiction over  
19 the property.

20 (2) Property taken or detained under this section shall  
21 not be subject to replevin but is deemed to be in the custody  
22 of the law enforcement authority subject only to the orders  
23 and decrees of the court of common pleas having jurisdiction  
24 over the forfeiture proceedings and of the district attorney.  
25 When property is seized under this section, the law  
26 enforcement authority shall place the property under seal and  
27 either:

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

29 or

30 (ii) require that the district attorney take custody

1 of the property and remove it to an appropriate location  
2 for disposition in accordance with law.

3 (3) Whenever property is forfeited under this section,  
4 the property shall be transferred to the custody of the  
5 municipal corporation. The municipal corporation shall sell  
6 any forfeited property, but the proceeds from any such sale  
7 shall be used to pay all proper expenses of the proceedings  
8 for forfeiture and sale, including expenses of seizure,  
9 maintenance of custody, advertising and court costs. The  
10 balance of the proceeds shall be used for the enforcement of  
11 this act.

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

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

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

6           To the Claimant of within Described Property:

7           You are required to file an answer to this petition,  
8 setting forth your title in, and right to possession of,  
9 the property within 30 days from the service hereof, and  
10 you are also notified that, if you fail to file the  
11 answer, a decree of forfeiture and condemnation will be  
12 entered against the property.

13 The notice shall be signed by the district attorney, deputy  
14 district attorney or assistant district attorney.

15           (6) If the owner of the property is unknown or there was  
16 no person in possession of the property when seized or if the  
17 owner or such person or persons in possession at the time of  
18 the seizure cannot be personally served or located within the  
19 jurisdiction of the court, notice of the petition shall be  
20 given by the Commonwealth through an advertisement in only  
21 one newspaper of general circulation published in the county  
22 where the property shall have been seized, once a week for  
23 two successive weeks. No other advertisement of any sort  
24 shall be necessary, any other law to the contrary  
25 notwithstanding. The notice shall contain a statement of the  
26 seizure of the property with a description of the property  
27 and the place and date of seizure and shall direct any  
28 claimants to the property to file a claim on or before a date  
29 given in the notice, which date shall not be less than 30  
30 days from the date of the first publication. If no claims are

1 filed within 30 days of publication, the property shall  
2 summarily forfeit to the Commonwealth.

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

6 (i) a copy of the petition is mailed to the last  
7 known address by certified mail and is returned without  
8 delivery;

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

11 (iii) a copy of the petition is left at the last  
12 known address.

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

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

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

27 (i) That the claimant is the owner of the property  
28 or the holder of a chattel mortgage or contract of  
29 conditional sale thereon.

30 (ii) That the claimant lawfully acquired the

1 property.

2 (iii) That it was not unlawfully used or possessed  
3 by him. In the event that it shall appear that the  
4 property was unlawfully used or possessed by a person  
5 other than the claimant, then the claimant shall show  
6 that the unlawful use or possession was without his  
7 knowledge or consent. Such absence of knowledge or  
8 consent must be reasonable under the circumstances  
9 presented.

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

28 \* \* \*

29 § 7508. Drug trafficking sentencing and penalties.

30 \* \* \*

1 (e) Forfeiture.--Assets against which a petition seeking  
2 forfeiture [petition] has been filed and is pending or against  
3 which the Commonwealth has indicated an intention to file a  
4 [forfeiture] petition seeking forfeiture shall not be subject to  
5 a fine. Nothing in this section shall prevent a fine from being  
6 imposed on assets which have been subject to an unsuccessful  
7 forfeiture petition.

8 \* \* \*

9 § 7707. Loss of property rights to Commonwealth.

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

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

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

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

21 (4) All money, negotiable instruments, securities or  
22 other things of value used or intended to be used to  
23 facilitate any violation of this chapter and all proceeds  
24 traceable to any transactions in violation of this chapter.

25 (5) All real property used or intended to be used to  
26 facilitate any violation of this chapter, including  
27 structures or other improvements thereon and including any  
28 right, title and interest in the whole or any lot or tract of  
29 land and any appurtenances or improvements which are used or  
30 intended to be used in any manner or part to commit or to

1 facilitate the commission of a violation of this chapter.

2 [(b) Exceptions.--

3 (1) No property shall be forfeited under this section,  
4 to the extent of the interest of an owner, by reason of any  
5 act or omission established by the owner to have been  
6 committed or omitted without the knowledge or consent of that  
7 owner.

8 (2) No valid lien or encumbrance on real property shall  
9 be subject to forfeiture or impairment under this paragraph.  
10 A lien which is fraudulent or intended to avoid forfeiture  
11 under this section shall be invalid.

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

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

21 (2) the property subject to seizure has been the subject  
22 of a proper judgment in favor of the Commonwealth in a  
23 criminal injunction or forfeiture proceeding under this  
24 chapter;

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

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

30 (d) Seizure without process.--In the event seizure without

1 process occurs as provided in this chapter, proceeding for the  
2 issuance thereof shall be instituted forthwith.

3 (e) Custody of property.--Property taken or detained under  
4 this section shall not be subject to replevin but is deemed to  
5 be in the custody of the law enforcement authority, subject only  
6 to the orders and decrees of the court of common pleas having  
7 jurisdiction over the forfeiture proceedings and of the district  
8 attorney or the Office of Attorney General. When property is  
9 seized under this chapter, the law enforcement authority shall  
10 place the property under seal and either:

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

12 (2) require that the district attorney or the Office of  
13 Attorney General take custody of the property and remove it  
14 to an appropriate location for disposition in accordance with  
15 law.

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

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

19 (i) the custody of the district attorney, if the law  
20 enforcement authority seizing the property has local or  
21 county jurisdiction; or

22 (ii) the Office of Attorney General, if the law  
23 enforcement authority seizing the property has Statewide  
24 jurisdiction.

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

27 (i) Retain the property for official use.

28 (ii) Sell any forfeited property which is not  
29 required to be destroyed by law and which is not harmful  
30 to the public, but the proceeds from any such sale must



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

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

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

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

1 General by September 30 of each year.

2 (j) Annual report; confidential information regarding  
3 property.--The Office of Attorney General shall annually submit  
4 a report to the Appropriations Committee of the Senate, the  
5 Appropriations Committee of the House of Representatives, the  
6 Judiciary Committee of the Senate and the Judiciary Committee of  
7 the House of Representatives specifying the forfeited property  
8 or proceeds thereof obtained under this section. The report  
9 shall give an account of all proceeds derived from the sale of  
10 forfeited property and the use made of unsold forfeited  
11 property. The Office of Attorney General shall adopt procedures  
12 and guidelines governing the release of information by the  
13 district attorney to protect the confidentiality of forfeited  
14 property or proceeds used in ongoing enforcement activities.

15 (k) Proceeds and appropriations.--The proceeds or future  
16 proceeds from forfeited property under this chapter shall be in  
17 addition to any appropriation made to the Office of Attorney  
18 General.] (a.1) Conduct of forfeiture.--Forfeiture of property  
19 shall be authorized for violation of this chapter and conducted  
20 in accordance with 42 Pa.C.S. §§ 5803 (relating to asset  
21 forfeiture), 5805 (relating to forfeiture procedure), 5806  
22 (relating to motion for return of property), 5807 (relating to  
23 restrictions on use), 5807.1 (relating to prohibition on  
24 adoptive seizures) and 5808 (relating to exceptions).

25 Section 7. Section 7708 of Title 18 is repealed:  
26 [§ 7708. Procedure with respect to seized property subject to  
27 liens and rights of lienholders.

28 (a) General procedure.--The proceedings for the forfeiture  
29 or condemnation of property, the sale of which is provided for  
30 under this chapter, shall be in rem in which the Commonwealth

1 shall be the plaintiff and the property the defendant. The  
2 Pennsylvania Rules of Civil Procedure shall apply to all  
3 forfeiture proceedings brought under this chapter. A petition  
4 shall be filed in the court of common pleas of the judicial  
5 district where the property is located, verified by oath or  
6 affirmation of an officer or citizen, containing the following:

- 7 (1) A description of the property seized.
- 8 (2) A statement of the time and place where seized.
- 9 (3) The owner, if known.
- 10 (4) The person or persons in possession, if known.
- 11 (5) An allegation that the property is subject to  
12 forfeiture under section 7707 (relating to loss of property  
13 rights to Commonwealth) and an averment of material facts  
14 upon which the forfeiture action is based.
- 15 (6) A prayer for an order of forfeiture that the  
16 property be adjudged forfeited to the Commonwealth and  
17 condemned and be ordered sold according to law unless cause  
18 be shown to the contrary.

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

24 To the claimant of within described property: You are  
25 required to file an answer to this petition, stating your  
26 title in and right to possession of the property within 30  
27 days from the service of this petition, and you are also  
28 notified that, if you fail to file an answer, a decree of  
29 forfeiture and condemnation will be entered against the  
30 property.

1 The notice shall be signed by the Attorney General, Deputy  
2 Attorney General, district attorney, deputy district attorney or  
3 assistant district attorney.

4 (c) Substitute notice.--

5 (1) If the owner of the property is unknown or there was  
6 no person in possession of the property when seized or if the  
7 owner or such person or persons in possession at the time of  
8 the seizure cannot be personally served or located within the  
9 jurisdiction of the court, notice of the petition shall be  
10 given by the Commonwealth through an advertisement in only  
11 one newspaper of general circulation published in the county  
12 where the property was seized once a week for two successive  
13 weeks. No other advertisement of any sort shall be necessary,  
14 any other law to the contrary notwithstanding.

15 (2) The notice shall:

16 (i) contain a statement of the seizure of the  
17 property with a description of the property and the place  
18 and date of seizure; and

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

23 (3) If no claims are filed within 30 days of  
24 publication, the property shall summarily forfeit to the  
25 Commonwealth.

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

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

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

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

5       (e) Notice automatically waived.--

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

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

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

14          (1) Upon application of the Commonwealth, the court may  
15 enter a restraining order or injunction, require the  
16 execution of a satisfactory performance bond or take any  
17 other action to preserve the availability of property  
18 described in section 7707 for forfeiture under this section  
19 either:

20           (i) upon the filing of an information or an  
21 indictment charging a violation of this chapter for which  
22 criminal forfeiture may be ordered under this chapter and  
23 alleging that the property with respect to which the  
24 order is sought would be subject to forfeiture; or

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

29           (A) There is a substantial probability that the

30           Commonwealth will prevail on the issue of forfeiture

1 and that failure to enter the order will result in  
2 the property being destroyed, removed from the  
3 jurisdiction of the court or otherwise made  
4 unavailable for forfeiture.

5 (B) The need to preserve the availability of the  
6 property through the entry of the requested order  
7 outweighs the hardship on any party against whom the  
8 order is to be entered.

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

13 (g) Temporary restraining order.--

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

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

22 (ii) the provision of notice will jeopardize the  
23 availability of the property for forfeiture.

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

26 (i) extended for good cause shown; or

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

29 (3) A hearing requested concerning an order entered  
30 under this subsection shall be held at the earliest possible

1 time and prior to the expiration of the temporary order.

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

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

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

14 (1) The claimant is the owner of the property or the  
15 holder of a chattel mortgage or contract of conditional sale  
16 thereon.

17 (2) The claimant lawfully acquired the property.

18 (3) It was not unlawfully used or possessed by the  
19 claimant. In the event that it shall appear that the property  
20 was unlawfully used or possessed by a person other than the  
21 claimant, then the claimant must show that the unlawful use  
22 or possession was without the claimant's knowledge or  
23 consent. Such absence of knowledge or consent must be  
24 reasonable under the circumstances presented.

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

26 (1) If a person claiming the ownership of or right of  
27 possession to or claiming to be the holder of a chattel  
28 mortgage or contract of conditional sale upon the property,  
29 the disposition of which is provided for in this section,  
30 prior to the sale presents a petition to the court alleging

1 over the property lawful ownership, right of possession, a  
2 lien or reservation of title and if, upon public hearing, due  
3 notice of which having been given to the Office of Attorney  
4 General or the district attorney, the claimant proves by  
5 competent evidence to the satisfaction of the court:

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

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

12 then the court may order the property returned or delivered  
13 to the claimant.

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

18 Section 8. Section 927 of Title 30 is amended to read:

19 § 927. Forfeiture of fish and devices.

20 (a) General rule.--A person convicted of an offense under  
21 this title shall forfeit any fish seized under section [901(6)]  
22 901(a)(6) (relating to powers and duties of waterways  
23 [patrolmen] conservation officers and deputies) and any device  
24 confiscated under this title. Forfeitures shall be conducted in  
25 accordance with 42 Pa.C.S. §§ 5803 (relating to asset  
26 forfeiture), 5805 (relating to forfeiture procedure), 5806  
27 (relating to motion for return of property), 5807 (relating to  
28 restrictions on use), 5807.1 (relating to prohibition on  
29 adoptive seizures) and 5808 (relating to exceptions).

30 [(b) Disposition of confiscated property.--Any property



1 confiscated by the commission under this title shall be sold or  
2 otherwise disposed of by the executive director. These  
3 dispositions shall be recorded on the books of the commission.]

4 Section 9. Title 42 is amended by adding a chapter to read:

5 CHAPTER 58

6 FORFEITURE OF ASSETS

7 Sec.

8 5801. Scope of chapter.

9 5802. Controlled substances forfeiture.

10 5803. Asset forfeiture.

11 5804. (Reserved).

12 5805. Forfeiture procedure.

13 5806. Motion for return of property.

14 5806.1. (Reserved).

15 5806.2. (Reserved).

16 5807. Restrictions on use.

17 5807.1. Prohibition on adoptive seizures.

18 5807.2. Federal reporting requirements.

19 5808. Exceptions.

20 § 5801. Scope of chapter.

21 This chapter relates to asset forfeiture.

22 § 5802. Controlled substances forfeiture.

23 The following shall be subject to forfeiture to the  
24 Commonwealth and no property right shall exist in them:

25 (1) All drug paraphernalia, controlled substances or  
26 other drugs which have been manufactured, distributed,  
27 dispensed or acquired in violation of the act of April 14,  
28 1972 (P.L.233, No.64), known as The Controlled Substance,  
29 Drug, Device and Cosmetic Act.

30 (2) All raw materials, products and equipment of any

1 kind which are used or intended for use in manufacturing,  
2 compounding, processing, delivering, importing or exporting  
3 any controlled substance or other drug in violation of The  
4 Controlled Substance, Drug, Device and Cosmetic Act.

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

7 (4) All conveyances, including aircraft, vehicles or  
8 vessels, which are used or are intended for use to transport,  
9 or in any manner to facilitate the transportation, sale,  
10 receipt, possession or concealment of property described in  
11 paragraph (1) or (2), except that:

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

21 (ii) no conveyance shall be forfeited under this  
22 chapter for a violation of section 13(a)(31) of The  
23 Controlled Substance, Drug, Device and Cosmetic Act.

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

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

29 (A) Money, negotiable instruments, securities or  
30 other things of value furnished or intended to be

1 furnished by any person in exchange for a controlled  
2 substance in violation of The Controlled Substance,  
3 Drug, Device and Cosmetic Act, and all proceeds  
4 traceable to such an exchange.

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

9 (C) Real property used or intended to be used to  
10 facilitate any violation of The Controlled Substance,  
11 Drug, Device and Cosmetic Act other than a violation  
12 of section 13(a)(16) or (31) of The Controlled  
13 Substance, Drug, Device and Cosmetic Act, including  
14 structures or other improvements thereon, and  
15 including any right, title and interest in the whole  
16 or any lot or tract of land and any appurtenances or  
17 improvements, which is used or intended to be used in  
18 any manner or part to commit or to facilitate the  
19 commission of a violation of The Controlled  
20 Substance, Drug, Device and Cosmetic Act, and things  
21 growing on, affixed to and found in the land.

22 (ii) The money and negotiable instruments found in  
23 close proximity to controlled substances possessed in  
24 violation of The Controlled Substance, Drug, Device and  
25 Cosmetic Act shall be rebuttably presumed to be proceeds  
26 derived from the selling of a controlled substance in  
27 violation of The Controlled Substance, Drug, Device and  
28 Cosmetic Act.

29 (iii) No valid lien or encumbrance on real property  
30 shall be subject to forfeiture or impairment under this

1 paragraph. A lien which is fraudulent or intended to  
2 avoid forfeiture under this chapter shall be invalid.

3 (7) Any firearms, including, but not limited to, rifles,  
4 shotguns, pistols, revolvers, machine guns, zip guns or any  
5 type of prohibited offensive weapon, as that term is defined  
6 in 18 Pa.C.S. § 6105 (relating to persons not to possess,  
7 use, manufacture, control, sell or transfer firearms), which  
8 are used or intended for use to facilitate a violation of The  
9 Controlled Substance, Drug, Device and Cosmetic Act. Firearms  
10 as are found in close proximity to illegally possessed  
11 controlled substances shall be rebuttably presumed to be used  
12 or intended for use to facilitate a violation of The  
13 Controlled Substance, Drug, Device and Cosmetic Act. All  
14 weapons forfeited under this chapter shall be immediately  
15 destroyed by the receiving law enforcement agency.

16 § 5803. Asset forfeiture.

17 (a) Applicability.--Notwithstanding any law to the contrary,  
18 this section shall apply to forfeitures conducted under the  
19 following:

20 (1) 4 Pa.C.S. § 1518 (relating to prohibited acts;  
21 penalties).

22 (2) 18 Pa.C.S. § 910 (relating to manufacture,  
23 distribution, use or possession of devices for theft of  
24 telecommunications services).

25 (3) 18 Pa.C.S. § 2717 (relating to terrorism).

26 (4) 18 Pa.C.S. § 3141 (relating to general rule).

27 (5) 18 Pa.C.S. § 4116 (relating to copying; recording  
28 devices).

29 (6) 18 Pa.C.S. § 4119 (relating to trademark  
30 counterfeiting).

1       (7) 18 Pa.C.S. § 5513 (relating to gambling devices,  
2 gambling, etc.).

3       (8) 18 Pa.C.S. § 5707 (relating to seizure and  
4 forfeiture of electronic, mechanical or other devices).

5       (9) 18 Pa.C.S. § 6501 (relating to scattering rubbish).

6       (10) 18 Pa.C.S. § 7707 (relating to loss of property  
7 rights to Commonwealth).

8       (11) 30 Pa.C.S. § 927 (relating to forfeiture of fish  
9 and devices).

10       (12) Section 5802 (relating to controlled substances  
11 forfeiture).

12       (13) 75 Pa.C.S. § 4909 (relating to transporting  
13 foodstuffs in vehicles used to transport waste).

14       (14) 75 Pa.C.S. § 9405 (relating to forfeitures; process  
15 and procedures).

16       (b) Process and seizure of money and personal property.--  
17 Property subject to forfeiture may be seized by a law  
18 enforcement authority if any of the following apply:

19       (1) The seizure is incident to an arrest or a search  
20 under a search warrant or inspection under an administrative  
21 inspection warrant and there is reason to believe the  
22 property is subject to forfeiture.

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

27       (3) There is probable cause to believe that the property  
28 is dangerous to health and safety and exigencies are likely  
29 to result in the destruction or removal of the property or in  
30 the property otherwise being made unavailable for forfeiture.

1           (4) There is probable cause to believe that the property  
2 has been used or is intended to be used in violation of the  
3 act of April 14, 1972 (P.L.233, No.64), known as The  
4 Controlled Substance, Drug, Device and Cosmetic Act, or  
5 another offense for which forfeiture is expressly authorized  
6 as a sanction.

7           (5) There is a warrant issued by a court of common pleas  
8 with appropriate jurisdiction.

9           (6) There is probable cause to believe that the property  
10 is subject to forfeiture and exigencies are likely to result  
11 in the destruction or removal of the property.

12       (b.1) Process and seizure of real property.--Real property  
13 subject to forfeiture under this chapter may be seized by the  
14 law enforcement authority upon process issued by a court of  
15 common pleas having jurisdiction over the property. Except as  
16 provided under this section, real property subject to forfeiture  
17 shall not be seized before the entry of an order of forfeiture  
18 and the owners or occupants of the real property shall not be  
19 evicted from or otherwise deprived of the use and enjoyment of  
20 real property that is the subject of a pending forfeiture  
21 action. The following shall apply:

22           (1) The filing of a lis pendens or the issuance of a  
23 temporary restraining order shall not constitute a seizure  
24 under this subsection.

25           (2) Real property may be seized prior to the entry of an  
26 order of forfeiture if:

27           (i) the district attorney or the Attorney General  
28 notifies the court that it intends to seize the property  
29 before a trial; and

30           (ii) the court:

1           (A) after causing notice to be served on the  
2           property owner and posted on the property and  
3           conducting a hearing in which the property owner has  
4           a meaningful opportunity to be heard, authorizes such  
5           seizure; or

6           (B) makes an ex parte determination that there  
7           is probable cause to believe that a nexus exists  
8           between the property and the criminal activity for  
9           which forfeiture is authorized and that exigent  
10           circumstances are presented that permit the district  
11           attorney or the Attorney General to seize the  
12           property without prior notice and an opportunity for  
13           the property owner to be heard.

14           (3) For purposes of paragraph (2) (ii) (B), exigent  
15           circumstances are presented where the district attorney or  
16           the Attorney General demonstrates that less restrictive  
17           measures, such as a lis pendens, temporary restraining order  
18           or security bond, would not suffice to protect the  
19           Commonwealth's interest in preventing the sale, destruction  
20           or continued unlawful use of the real property.

21           (4) If the court authorizes a seizure of real property  
22           under paragraph (2) (ii) (B), it shall conduct a prompt  
23           postseizure hearing at which the claimant shall have an  
24           opportunity to contest the Commonwealth's continuing custody  
25           of the property.

26           (c) Issuance of process.--If seizure without process occurs  
27           under subsection (b) or (b.1), proceedings for the issuance of  
28           process shall be instituted as soon as feasible.

29           (d) Custody of property.--Property taken or detained under  
30           this section shall not be subject to replevin and is deemed to

1 be in the custody of the law enforcement authority subject only  
2 to the orders and decrees of the court of common pleas having  
3 jurisdiction over the forfeiture proceedings of the district  
4 attorney or the Attorney General. When property is seized under  
5 this chapter, the law enforcement authority shall place the  
6 property in a secure area or facility and either:

7 (1) remove the property to a secure area or facility  
8 designated by the law enforcement authority; or

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

13 (e) Receipt.--When property is seized, the law enforcement  
14 authority shall provide a receipt to the person in possession of  
15 the property or, in the absence of a person, leave a receipt in  
16 the place where the property was found, if reasonably possible.  
17 The receipt shall provide notice of the right of interest  
18 holders to seek the return of the seized property under this  
19 chapter. This section shall not apply if law enforcement is  
20 otherwise required to provide a receipt for the property.

21 (f) Use of property held in custody.--When property is  
22 forfeited under this chapter, the property shall be transferred  
23 to the custody of the district attorney, if the law enforcement  
24 authority seizing the property has local or county jurisdiction,  
25 or the Attorney General, if the law enforcement authority  
26 seizing the property has Statewide jurisdiction. The district  
27 attorney or the Attorney General, where appropriate, may:

28 (1) retain the property for official use; or

29 (2) sell any forfeited property which is not required to  
30 be destroyed by law and which is not harmful to the public,



1 except that the proceeds from the sale shall be used to pay  
2 all proper expenses of the proceedings for forfeiture and  
3 sale, including expenses of seizure, maintenance of custody,  
4 advertising and court costs. The balance of the proceeds  
5 shall be used and distributed in accordance with this  
6 chapter.

7 (f.1) Prohibited sales.--Sale of forfeited property to an  
8 employee of the district attorney or Attorney General, an  
9 individual related to an employee by blood or marriage or an  
10 employee of another law enforcement authority is prohibited.

11 (g) Use of cash or proceeds of property.--Cash or proceeds  
12 of property, subject to forfeiture under section 5802 and  
13 transferred to the custody of the district attorney under  
14 subsection (f) shall be placed in the operating fund of the  
15 county in which the district attorney is elected. The  
16 appropriate county authority shall immediately release from the  
17 operating fund, without restriction, a like amount for the use  
18 of the district attorney for the enforcement of or prevention of  
19 a violation of the provisions of The Controlled Substance, Drug,  
20 Device and Cosmetic Act. The funds shall be maintained in an  
21 account or accounts separate from other revenues of the office.  
22 The entity having budgetary control shall not anticipate future  
23 forfeitures or proceeds from future forfeitures in adoption and  
24 approval of the budget for the district attorney.

25 (h) Distribution of property among law enforcement  
26 authorities.--If both State and municipal law enforcement  
27 authorities were substantially involved in effecting the  
28 seizure, the court having jurisdiction over the forfeiture  
29 proceedings shall equitably distribute the property between the  
30 district attorney and the Attorney General.

1 (i) Authorization to utilize property.--Cash or proceeds of  
2 property subject to forfeiture under section 5802 and  
3 transferred to the custody of the district attorney or Attorney  
4 General under subsection (f) shall be utilized by the district  
5 attorney or Attorney General for the enforcement of or  
6 prevention of a violation of the provisions of The Controlled  
7 Substance, Drug, Device and Cosmetic Act. In appropriate cases,  
8 the district attorney and the Attorney General may designate  
9 proceeds from the forfeited property to be utilized by  
10 community-based drug and crime-fighting programs and for  
11 relocation and protection of witnesses in criminal cases. Real  
12 property may be transferred to a nonprofit organization to  
13 alleviate blight resulting from violations of The Controlled  
14 Substance, Drug, Device and Cosmetic Act.

15 (j) Annual audit of forfeited property.--Every county in  
16 this Commonwealth shall provide, through the controller, board  
17 of auditors or other appropriate auditor and the district  
18 attorney, an annual audit of all forfeited property and proceeds  
19 obtained under this chapter. The audit shall not be made public  
20 but shall be submitted to the Office of Attorney General. By  
21 September 30 of each year, the county shall report all forfeited  
22 property and proceeds obtained under this chapter and the  
23 disposition of the property during the preceding year to the  
24 Attorney General. The Attorney General and each district  
25 attorney shall maintain and create appropriate records to  
26 account for the property forfeited in a fiscal year and the use  
27 made of the property forfeited. Each audit shall include:

- 28 (1) Date property was seized.  
29 (2) The type of property seized.  
30 (3) Where property was seized.

1 (4) The approximate value.

2 (5) The alleged criminal behavior with which the  
3 property is associated.

4 (6) The disposition or use of property received <--  
5 FORFEITED. <--

6 (7) Whether the forfeiture was related to a criminal  
7 case and the outcome of the criminal case.

8 (8) Date of forfeiture decision.

9 (k) Annual report and confidential information.--The  
10 Attorney General shall annually submit a report to the  
11 Appropriations Committee and Judiciary Committee of the Senate  
12 and to the Appropriations Committee and Judiciary Committee of  
13 the House of Representatives specifying the forfeited property  
14 or proceeds of the forfeited property obtained under this  
15 chapter during the fiscal year beginning July 1 and the  
16 following shall apply:

17 (1) The report shall include all information required  
18 under subsection (j) subject to the limitations provided  
19 under paragraph (2).

20 (2) The Attorney General shall adopt procedures and  
21 guidelines, which shall be public, governing the release of  
22 information by the Attorney General or the district attorney  
23 to protect the confidentiality of forfeited property or  
24 proceeds used in ongoing law enforcement activities.

25 (k.1) Reporting.--By November 30 of each year, the Office of  
26 Attorney General shall notify the Appropriations Committee and  
27 Judiciary Committee of the Senate and the Appropriations  
28 Committee and Judiciary Committee of the House of  
29 Representatives of any county which has not submitted an audit  
30 and complied with the requirements in subsection (j).

1     (1) Proceeds and appropriations.--The proceeds or future  
2 proceeds from forfeited property under this chapter shall be in  
3 addition to any appropriation made to the Office of Attorney  
4 General. The Attorney General shall maintain proceeds from  
5 property forfeited to the Office of Attorney General in an  
6 account or accounts separate from any other account maintained  
7 by the Office of Attorney General.

8     § 5804. (Reserved).

9     § 5805. Forfeiture procedure.

10     (a) General procedure.--The proceedings for the forfeiture  
11 or condemnation of property, the sale of which is provided for  
12 in this chapter, shall be in rem, in which the Commonwealth  
13 shall be the plaintiff and the property the defendant. A  
14 forfeiture petition signed by the Attorney General, deputy  
15 attorney general, district attorney or assistant district  
16 attorney shall be filed in the court of common pleas of the  
17 judicial district where the property is seized or located,  
18 verified by oath or affirmation of an officer. If criminal  
19 charges have been filed and a prosecution is pending, the  
20 petition shall be filed in the same judicial district as the  
21 criminal charges in all instances except those involving real  
22 property. Each petition relating to real property shall be filed  
23 in the jurisdiction where the real property is located.

24         (1) Each forfeiture petition shall contain the  
25 following:

26             (i) A description of the property actually seized or  
27 constructively seized, including, but not limited to, if  
28 known, the address of any real property, the exact dollar  
29 amount of any United States currency, or the approximate  
30 value of any negotiable instrument or security and the

1 make, model, year and license plate number of any  
2 vehicle.

3 (ii) A statement of the time and place where seized.

4 (iii) The owner, if known.

5 (iv) The person or persons in possession at the time  
6 of seizure, if known.

7 (v) An allegation that the property is subject to  
8 forfeiture and an averment of material facts supporting  
9 the forfeiture action.

10 (vi) A prayer for an order of forfeiture that the  
11 property be adjudged forfeited to the Commonwealth unless  
12 cause is shown to the contrary.

13 (2) The following shall apply:

14 (i) A claimant shall file an answer setting forth a  
15 right of possession of the property within 30 days of  
16 service of the forfeiture petition. The answer shall be  
17 in writing and filed to the docket number in the court of  
18 common pleas and shall be signed by the claimant or the  
19 claimant's attorney.

20 (ii) The following shall apply:

21 (A) Prior to filing an answer to a forfeiture  
22 petition, a claimant may file a motion to stay the  
23 forfeiture proceedings if the claimant has been  
24 criminally charged in a case associated with the  
25 forfeiture matter. If the motion is properly filed,  
26 it shall be granted.

27 (B) The claimant shall have 30 days from the  
28 date the stay is lifted to file an answer in  
29 accordance with this paragraph.

30 (3) After the answer is filed, the parties shall be

1 permitted to conduct discovery.

2 (b) Notice to property owners.--

3 (1) A copy of the forfeiture petition required under  
4 subsection (a) shall be served personally or by certified  
5 mail on the owner, if known, and on each person in possession  
6 at the time of the seizure, if known. The copy shall have  
7 endorsed a notice, as follows:

8 To the claimant of within described property:

9 You are required to file an answer to this petition,  
10 setting forth your title in, and right to possession of,  
11 said property within 30 days from the service hereof, and  
12 you are also notified that, if you fail to file the  
13 answer, a decree of forfeiture and condemnation will be  
14 entered against the property.

15 (2) The notice under paragraph (1) must be signed by the  
16 Attorney General, deputy attorney general, district attorney,  
17 deputy district attorney or assistant district attorney and  
18 contain accurate contact information for the signatory.

19 (c) Substitute notice.--

20 (1) If the owner of the property is unknown, there was  
21 no person in possession of the property when seized or the  
22 owner or each person in possession at the time of the seizure  
23 cannot be personally served or located within the  
24 jurisdiction of the court, notice of the petition shall be  
25 given by the Commonwealth through an advertisement in at  
26 least one newspaper of general circulation published in the  
27 county where the property has been seized, once a week for  
28 two successive weeks.

29 (2) Notwithstanding any other law, no other  
30 advertisement shall be necessary.

1       (3) The notice shall contain a statement of the seizure  
2 of the property with a description of the property and the  
3 place and date of seizure and shall direct any claimants to  
4 the property to file a claim on or before a date given in the  
5 notice, which shall not be less than 30 days from the date of  
6 the first publication.

7       (4) If no claims are filed within 30 days of  
8 publication, the Commonwealth may move for default judgment.

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

12       (1) a copy of the petition is mailed to the last known  
13 address by certified mail and is returned without delivery;

14       (2) personal service is attempted once, but cannot be  
15 made at the last known address; and

16       (3) a copy of the petition is left at the last known  
17 address unless the address does not exist.

18       (d.1) Proof of notice.--The Commonwealth shall file proof of  
19 notice with the court. Forfeiture shall not be ordered if the  
20 court finds that proof does not exist that the notice  
21 requirements contained under subsections (b), (c) and (d), if  
22 applicable, have been met.

23       (e) Notice automatically waived.--The notice provisions of  
24 this section shall be automatically waived if the owner, without  
25 good cause, fails to appear in court in response to a subpoena  
26 and a bench warrant is issued on the underlying criminal  
27 charges. If good cause has not been demonstrated, the  
28 Commonwealth may move for default judgment.

29       (f) Release of seized property pending conclusion of  
30 proceedings.--

1           (1) A claimant to property subject to forfeiture is  
2 permitted to seek the immediate release of seized property  
3 if:

4           (i) the claimant has a possessory interest in the  
5 property;

6           (ii) the claimant has sufficient ties to the  
7 community to provide assurance that the property will be  
8 available at the time of the trial;

9           (iii) the continued possession by the Commonwealth  
10 pending the final disposition of forfeiture proceedings  
11 will cause substantial hardship to the claimant, such as  
12 preventing the functioning of a legitimate business,  
13 preventing the claimant from working or leaving the  
14 claimant homeless;

15           (iv) the claimant's likely hardship from the  
16 continued possession by the Commonwealth of the seized  
17 property outweighs the risk that the property will be  
18 destroyed, damaged, lost, concealed or transferred if the  
19 property is returned to the claimant during the pendency  
20 of the forfeiture proceeding; and

21           (v) none of the conditions under paragraph (6)  
22 apply.

23           (2) The following shall apply:

24           (i) The claimant under paragraph (1) may file a  
25 motion in the court of common pleas in which the  
26 forfeiture petition has been filed or, if no forfeiture  
27 petition has been filed, in the court of common pleas in  
28 the jurisdiction in which the property was seized. The  
29 motion shall be served upon the district attorney or  
30 Attorney General who has jurisdiction over the case.



1           (ii) The motion described in this subsection shall  
2           set forth the basis on which the requirements of  
3           paragraph (1) have been met.

4           (3) If the Commonwealth establishes that the claimant's  
5           motion is meritless, the court shall deny the motion. In  
6           response to a motion under this subsection, the Commonwealth  
7           may, in appropriate cases, submit evidence ex parte in order  
8           to avoid disclosing any matter that may adversely affect an  
9           ongoing criminal investigation or pending criminal trial.

10          (4) The following shall apply:

11           (i) The court shall order that the property be  
12           returned to the claimant pending completion of the  
13           forfeiture proceeding if:

14                   (A) a motion is filed under paragraph (2); and

15                   (B) following a hearing, the claimant has  
16           demonstrated that the requirements of paragraph (1)  
17           have been met.

18           (ii) If the motion addresses currency, monetary  
19           instruments or electronic funds, the claimant must  
20           establish by a preponderance of the evidence a documented  
21           and noncriminal source of the currency, monetary  
22           instrument or electronic fund. The requirement under this  
23           subparagraph shall be in addition to the requirements  
24           under subparagraph (i).

25          (5) If the court grants a motion under paragraph (4):

26           (i) the court may enter any order necessary to  
27           ensure that the value of the property is maintained while  
28           the forfeiture action is pending, including:

29                   (A) permitting the inspection, photographing and  
30           the taking of inventory of the property;

1                   (B) fixing a bond; and  
2                   (C) requiring the claimant to obtain or maintain  
3                   insurance on the subject property;

4                   (ii) the Commonwealth may place a lien against the  
5                   property or file a lis pendens to ensure that the  
6                   property is not transferred to another person; and  
7                   (iii) if the property in question is currency,  
8                   monetary instruments or electronic funds, the court shall  
9                   fix a bond as provided under paragraph (5.1).

10                  (5.1) For the purposes of paragraph (5)(iii), the  
11                  following shall apply to the fixing of a bond sufficient to  
12                  secure the value of the currency, monetary instruments or  
13                  electronic funds:

14                  (i) If the value of the currency, monetary  
15                  instruments or electronic funds is less than \$2,000, the  
16                  court may order the fixing of a bond.

17                  (ii) If the value of the currency, monetary  
18                  instruments or electronic funds is at least \$2,000, but  
19                  less than \$5,000, the court may order the fixing of a  
20                  bond. If the court finds that the claimant has not  
21                  demonstrated his or her ability to ensure the  
22                  availability of the currency at the time of the  
23                  forfeiture trial, the court shall order the fixing of a  
24                  bond.

25                  (iii) If the value of the currency, monetary  
26                  instruments or electronic funds is \$5,000 or more, the  
27                  court shall order the fixing of a bond.

28                  (6) This subsection shall not apply if the seized  
29                  property:

30                  (i) is contraband;

1           (ii) is evidence which shall include, but not be  
2           limited to, proceeds from a violation of law;

3           (iii) by reason of design or other characteristic,  
4           is particularly suited for use in illegal activities; or

5           (iv) is likely to be used to commit additional  
6           criminal acts if returned to the claimant.

7           (7) A party to a proceeding under this subsection shall  
8           not be estopped from raising in any other proceeding any  
9           claim or issue presented to or decided by the court under  
10           this subsection.

11           (g) (Reserved).

12           (h) (Reserved).

13           (i) Trial time.--On the filing of an answer setting forth a  
14           right of possession, the case shall be deemed at issue and a  
15           time shall be fixed for the trial. A judicial district shall not  
16           require the parties to proceed through local rules of  
17           arbitration.

18           (j) Burden of proof.--

19           (1) The burden shall be on the Commonwealth to establish  
20           in the forfeiture petition that the property is subject to  
21           forfeiture.

22           (2) If the Commonwealth satisfies the burden under  
23           paragraph (1), the burden shall be on the claimant to show by  
24           a preponderance of the evidence that:

25           (i) the claimant is the owner of the property or the  
26           holder of a chattel mortgage or contract of conditional  
27           sale on the property or holds some other documented  
28           interest in the property; and

29           (ii) the claimant lawfully acquired the property.

30           (3) If the claimant satisfies the burden under paragraph

1 (2), the burden shall be on the Commonwealth to establish by  
2 clear and convincing evidence that the property in question  
3 was unlawfully used, possessed or otherwise subject to the  
4 forfeiture.

5 (4) If the Commonwealth satisfies the burden under  
6 paragraph (3) and the claimant alleges that he did not have  
7 knowledge of the unlawful activity or consent to the unlawful  
8 activity, the burden shall be on the Commonwealth to  
9 establish by clear and convincing evidence:

10 (i) that the property was unlawfully used or  
11 possessed by the claimant; or

12 (ii) if it appears that the property was unlawfully  
13 used or possessed by a person other than the claimant,  
14 that the person unlawfully used or possessed the property  
15 with the claimant's knowledge and consent.

16 (k) Proportionality.--

17 (1) If the court determines that the forfeiture petition  
18 shall be granted, the claimant, prior to entry of an order of  
19 forfeiture, may petition the court to determine whether the  
20 forfeiture is constitutionally excessive.

21 (2) If the court finds that the forfeiture is grossly  
22 disproportional to the offense, the court shall reduce or  
23 eliminate the forfeiture as necessary to avoid a  
24 constitutional violation.

25 (l) Disclaimed property.--A defendant in a criminal case who  
26 disclaims ownership of property during the criminal case may not  
27 claim ownership during a subsequent forfeiture proceeding.

28 (m) Procedure following acquittal.--The following shall  
29 apply:

30 (1) If the owner of the property is acquitted of all

1 crimes which authorize forfeiture, there shall be a  
2 rebuttable presumption that the property was lawfully used or  
3 possessed by the claimant.

4 (2) If the owner of the property is acquitted of all  
5 crimes which authorize forfeiture, the owner shall be  
6 entitled to a hearing under section 5806 (relating to motion  
7 for return of property).

8 (3) If the forfeiture petition relating to the property  
9 at issue has already been litigated, this section shall not  
10 apply.

11 (4) As used in this subsection, the term "acquittal"  
12 shall not include plea agreements, acceptance of Accelerated  
13 Rehabilitative Disposition or any other form of preliminary  
14 disposition.

15 § 5806. Motion for return of property.

16 (a) Motion.--The following shall apply:

17 (1) A person aggrieved by a search and seizure may move  
18 for the return of the property seized by filing a motion in  
19 the court of common pleas in the judicial district where the  
20 property is located.

21 (2) The filer under paragraph (1) must serve the  
22 Commonwealth.

23 (3) Upon proof of service, the court shall schedule a  
24 prompt hearing on the motion and shall notify the  
25 Commonwealth. A hearing on the motion shall, to the extent  
26 practicable and consistent with the interests of justice, be  
27 held within 30 days of the filing of the motion.

28 (4) The assigned judge may require the filing of an  
29 answer.

30 (5) If a forfeiture petition was filed by the

1 Commonwealth before the filing of a motion for return of  
2 property, the motion shall be assigned to the same judge for  
3 disposition, as practicable.

4 (b) Contents of motion.--A motion under this section shall:

5 (1) Be signed by the petitioner under penalty of  
6 perjury.

7 (2) Describe the nature and extent of the petitioner's  
8 right, title or interest in the property, the time and  
9 circumstances of the petitioner's acquisition of the right,  
10 title or interest in the property and any additional facts  
11 supporting the petitioner's claim. The information shall  
12 include:

13 (i) A description of the property seized.

14 (ii) A statement of the time and place where seized,  
15 if known.

16 (iii) The owner, if known.

17 (iv) The person in possession, if known.

18 (3) Identify the relief sought, which may include:

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

20 (ii) Reimbursement for the petitioner's legal  
21 interest in the property.

22 (iii) Severance of the petitioner's property from  
23 the forfeited property.

24 (iv) Any relief the court deems appropriate and  
25 just.

26 § 5806.1. (Reserved).

27 § 5806.2. (Reserved).

28 § 5807. Restrictions on use.

29 Property, money or other things of value received by a State  
30 law enforcement authority under any of the following laws may

1 not be used for contributions to political campaigns, expenses  
2 related to judicial trainings or the purchase of alcoholic  
3 beverages:

4 (1) A Federal law which authorizes the sharing or  
5 transfer of all or a portion of forfeited property or the  
6 proceeds of the sale of forfeited property to a State law  
7 enforcement authority.

8 (2) A State law which authorizes forfeiture.

9 § 5807.1. Prohibition on adoptive seizures.

10 State law enforcement authorities shall not refer seized  
11 property to a Federal agency seeking the adoption by the Federal  
12 agency of the seized property. Nothing under this chapter shall  
13 prohibit the Federal Government or any of its agencies from  
14 seeking Federal forfeiture of the same property under any  
15 Federal forfeiture law.

16 § 5807.2. Federal reporting requirements.

17 The audit required under section 5803(j) (relating to asset  
18 forfeiture) shall include a copy of each equitable sharing  
19 agreement and certification form filed with the United States  
20 Department of Justice within the last 12 months.

21 § 5808. Exceptions.

22 (a) Contraband.--Nothing in this chapter shall be construed  
23 to apply to the forfeiture of the following:

24 (1) Items bearing a counterfeit mark under 18 Pa.C.S. §  
25 4119 (relating to trademark counterfeiting).

26 (2) Liquor, alcohol or malt or brewed beverages  
27 illegally manufactured or possessed under section 601 of the  
28 act of April 12, 1951 (P.L.90, No.21), known as the Liquor  
29 Code.

30 (3) Unlawfully stamped cigarettes under section 307 of

1 the act of December 30, 2003 (P.L.441, No.64), known as the  
2 Tobacco Product Manufacturer Directory Act.

3 (4) Unstamped cigarettes under section 1285 of the act  
4 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
5 of 1971.

6 (b) Abandoned and unclaimed property.--This chapter shall  
7 not apply to abandoned or unclaimed property under Article  
8 XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as  
9 The Fiscal Code.

10 Section 10. Sections 6801, 6801.1 and 6802 of Title 42 are  
11 repealed:

12 [§ 6801. Controlled substances forfeiture.

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

16 (1) All drug paraphernalia, controlled substances or  
17 other drugs which have been manufactured, distributed,  
18 dispensed or acquired in violation of the act of April 14,  
19 1972 (P.L.233, No.64), known as The Controlled Substance,  
20 Drug, Device and Cosmetic Act.

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

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

28 (4) All conveyances, including aircraft, vehicles or  
29 vessels, which are used or are intended for use to transport,  
30 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

1       Cosmetic Act.

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

3                   (A)   Money, negotiable instruments, securities or  
4                   other things of value furnished or intended to be  
5                   furnished by any person in exchange for a controlled  
6                   substance in violation of The Controlled Substance,  
7                   Drug, Device and Cosmetic Act, and all proceeds  
8                   traceable to such an exchange.

9                   (B)   Money, negotiable instruments, securities or  
10                   other things of value used or intended to be used to  
11                   facilitate any violation of The Controlled Substance,  
12                   Drug, Device and Cosmetic Act.

13                   (C)   Real property used or intended to be used to  
14                   facilitate any violation of The Controlled Substance,  
15                   Drug, Device and Cosmetic Act, including structures  
16                   or other improvements thereon, and including any  
17                   right, title and interest in the whole or any lot or  
18                   tract of land and any appurtenances or improvements,  
19                   which is used, or intended to be used, in any manner  
20                   or part, to commit, or to facilitate the commission  
21                   of, a violation of The Controlled Substance, Drug,  
22                   Device and Cosmetic Act, and things growing on,  
23                   affixed to and found in the land.

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

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

5 (iii) No valid lien or encumbrance on real property  
6 shall be subject to forfeiture or impairment under this  
7 paragraph. A lien which is fraudulent or intended to  
8 avoid forfeiture under this section shall be invalid.

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

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

27 (1) the seizure is incident to an arrest or a search  
28 under a search warrant or inspection under an administrative  
29 inspection warrant;

30 (2) the property subject to seizure has been the subject

1 of a prior judgment in favor of the Commonwealth in a  
2 criminal injunction or forfeiture proceeding under this  
3 chapter;

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

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

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

12 (d) Custody of property.--Property taken or detained under  
13 this section shall not be subject to replevin, but is deemed to  
14 be in the custody of the law enforcement authority subject only  
15 to the orders and decrees of the court of common pleas having  
16 jurisdiction over the forfeiture proceedings and of the district  
17 attorney or the Attorney General. When property is seized under  
18 this chapter, the law enforcement authority shall place the  
19 property under seal and either:

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

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

24 (e) Use of property held in custody.--Whenever property is  
25 forfeited under this chapter, the property shall be transferred  
26 to the custody of the district attorney, if the law enforcement  
27 authority seizing the property has local or county jurisdiction,  
28 or the Attorney General, if the law enforcement authority  
29 seizing the property has Statewide jurisdiction. The district  
30 attorney or the Attorney General, where appropriate, may:

1           (1) Retain the property for official use.

2           (2) Sell any forfeited property which is not required to  
3 be destroyed by law and which is not harmful to the public,  
4 but the proceeds from any such sale shall be used to pay all  
5 proper expenses of the proceedings for forfeiture and sale,  
6 including expenses of seizure, maintenance of custody,  
7 advertising and court costs. The balance of the proceeds  
8 shall be dealt with in accordance with subsections (f) and  
9 (g).

10          (f) Use of cash or proceeds of property.--Cash or proceeds  
11 of forfeited property transferred to the custody of the district  
12 attorney pursuant to subsection (e) shall be placed in the  
13 operating fund of the county in which the district attorney is  
14 elected. The appropriate county authority shall immediately  
15 release from the operating fund, without restriction, a like  
16 amount for the use of the district attorney enforcing the  
17 provisions of The Controlled Substance, Drug, Device and  
18 Cosmetic Act. The entity having budgetary control shall not  
19 anticipate future forfeitures or proceeds therefrom in adoption  
20 and approval of the budget for the district attorney.

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

27          (h) Authorization to utilize property.--The district  
28 attorney and the Attorney General shall utilize forfeited  
29 property or proceeds thereof for the purpose of enforcing the  
30 provisions of The Controlled Substance, Drug, Device and

1 Cosmetic Act. In appropriate cases, the district attorney and  
2 the Attorney General may designate proceeds from forfeited  
3 property to be utilized by community-based drug and crime-  
4 fighting programs and for relocation and protection of witnesses  
5 in criminal cases.

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

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

28 (k) Proceeds and appropriations.--The proceeds or future  
29 proceeds from forfeited property under this chapter shall be in  
30 addition to any appropriation made to the Office of Attorney

1 General.

2 § 6801.1. Terrorism forfeiture.

3 (a) Forfeitures generally.--The following shall be subject  
4 to forfeitures to the Commonwealth, and no property right shall  
5 exist in them:

6 (1) All assets, foreign or domestic:

7 (i) Of an individual, entity or organization engaged  
8 in planning or perpetrating an act in this Commonwealth  
9 which violates 18 Pa.C.S. § 2717 (relating to terrorism)  
10 and all assets, foreign or domestic, affording a person a  
11 source of influence over such an entity or organization.

12 (ii) Acquired or maintained by a person with the  
13 intent and for the purpose of supporting, planning,  
14 conducting or concealing an act in this Commonwealth  
15 which violates 18 Pa.C.S. § 2717.

16 (iii) Derived from, involved in or used or intended  
17 to be used to commit an act in this Commonwealth which  
18 violates 18 Pa.C.S. § 2717.

19 (2) All assets within this Commonwealth:

20 (i) Of an individual, entity or organization engaged  
21 in planning or perpetrating an act which violates 18  
22 Pa.C.S. § 2717.

23 (ii) Acquired or maintained with the intent and for  
24 the purpose of supporting, planning, conducting or  
25 concealing an act which violates 18 Pa.C.S. § 2717.

26 (iii) Derived from, involved in or used or intended  
27 to be used to commit an act which violates 18 Pa.C.S. §  
28 2717.

29 (b) Process and seizures.--Property subject to forfeiture  
30 under this section may be seized by the law enforcement

1 authority upon process issued by a court of common pleas having  
2 jurisdiction over the property. Seizure without process may be  
3 made if any of the following apply:

4 (1) The seizure is incident to an arrest, a search under  
5 a search warrant or an inspection under an administrative  
6 inspection warrant.

7 (2) The property subject to seizure has been the subject  
8 of a prior judgment in favor of the Commonwealth in a  
9 criminal injunction or forfeiture proceeding under this  
10 chapter.

11 (3) There is probable cause to believe that the property  
12 is dangerous to health or safety.

13 (4) There is probable cause to believe that the property  
14 has been or is intended to be used in the commission of an  
15 act which violates 18 Pa.C.S. § 2717.

16 (c) Seizure without process.--In the event seizure is made  
17 without process, proceedings for the issuance of process shall  
18 be instituted forthwith.

19 (d) Custody of property.--Property taken or detained under  
20 this section shall not be subject to replevin but is deemed to  
21 be in the custody of the law enforcement authority, subject only  
22 to the orders and decrees of the court of common pleas having  
23 jurisdiction over the forfeiture proceedings and of the district  
24 attorney or the Attorney General. When property is seized under  
25 this section, the law enforcement authority shall place the  
26 property under seal and either:

27 (1) remove the property to a place determined by the law  
28 enforcement authority; or

29 (2) request that the district attorney or Attorney  
30 General take custody of the property and remove it to an



1 appropriate location for disposition in accordance with law.

2 (e) Use of property held in custody.--Whenever property is  
3 forfeited under this section, it shall be transferred to the  
4 custody of the district attorney if the law enforcement  
5 authority seizing the property has local or county jurisdiction  
6 or of the Attorney General if the law enforcement authority  
7 seizing the property has Statewide jurisdiction. The district  
8 attorney or the Attorney General, where appropriate, may:

9 (1) Retain the property for official use.

10 (2) Sell any forfeited property which is not required to  
11 be destroyed by law and which is not harmful to the public,  
12 the proceeds from any such sale to be used to pay all proper  
13 expenses of the proceedings for forfeiture and sale,  
14 including expenses of seizure, maintenance of custody,  
15 advertising and court costs. The balance of the proceeds  
16 shall be dealt with under subsections (f) and (g).

17 (f) Use of cash or proceeds of property.--Cash or proceeds  
18 of forfeited property transferred to the custody of the district  
19 attorney under subsection (e) shall be placed in the operating  
20 fund of the county in which the district attorney is elected.  
21 The appropriate county authority shall immediately release from  
22 the operating fund, without restriction, a like amount for the  
23 use of the district attorney in enforcing the criminal laws of  
24 the Commonwealth of Pennsylvania. The entity having budgetary  
25 control shall not anticipate future forfeitures or proceeds  
26 therefrom in adoption and approval of the budget for the  
27 district attorney.

28 (g) Distribution of property among law enforcement  
29 authorities.--If both municipal and State law enforcement  
30 authorities were substantially involved in effecting the

1 seizure, the court having jurisdiction over the forfeiture  
2 proceedings shall equitably distribute the property between the  
3 district attorney and the Attorney General.

4 (h) Authorization to utilize property.--The district  
5 attorney and the Attorney General shall utilize forfeited  
6 property or proceeds thereof for the purpose of enforcing the  
7 provisions of 18 Pa.C.S. § 2717, section 6802 (relating to  
8 procedure with respect to seized property subject to liens and  
9 rights of lienholders) and this section. In appropriate cases,  
10 the district attorney and the Attorney General may designate  
11 proceeds from forfeited property to be utilized for  
12 antiterrorism public safety programs and for relocation and  
13 protection of witnesses in criminal cases.

14 (i) Annual audit of forfeited property.--It shall be the  
15 responsibility of every county in this Commonwealth to provide,  
16 through the controller, board of auditors or other appropriate  
17 auditor and the district attorney, an annual audit of all  
18 forfeited property and proceeds obtained under this section. The  
19 audit shall not be made public but shall be submitted to the  
20 Office of Attorney General. The county shall report all  
21 forfeited property and proceeds obtained under this section and  
22 the disposition thereof to the Attorney General by September 30  
23 of each year.

24 (j) Annual report; confidential information regarding  
25 property.--The Attorney General shall annually submit a report  
26 to the Appropriations Committee and Judiciary Committee of the  
27 Senate and the Appropriations Committee and Judiciary Committee  
28 of the House of Representatives specifying the forfeited  
29 property or proceeds thereof obtained under this section. The  
30 report shall give an accounting of all proceeds derived from the

1 sale of forfeited property and the use made of unsold forfeited  
2 property. The Attorney General shall adopt procedures and  
3 guidelines governing the release of information by the district  
4 attorney to protect the confidentiality of forfeited property or  
5 proceeds used in ongoing antiterrorist activities.

6 (k) Proceeds and appropriations.--The proceeds or future  
7 proceeds from property forfeited under this section shall be in  
8 addition to any appropriation made to the Office of Attorney  
9 General.

10 § 6802. Procedure with respect to seized property subject to  
11 liens and rights of lienholders.

12 (a) General procedure.--The proceedings for the forfeiture  
13 or condemnation of property, the sale of which is provided for  
14 in this chapter, shall be in rem, in which the Commonwealth  
15 shall be the plaintiff and the property the defendant. A  
16 petition shall be filed in the court of common pleas of the  
17 judicial district where the property is located, verified by  
18 oath or affirmation of an officer or citizen, containing the  
19 following:

- 20 (1) A description of the property seized.
- 21 (2) A statement of the time and place where seized.
- 22 (3) The owner, if known.
- 23 (4) The person or persons in possession, if known.
- 24 (5) An allegation that the property is subject to  
25 forfeiture pursuant to section 6801(a) (relating to  
26 controlled substances forfeiture) or 6801.1(a) (relating to  
27 terrorism forfeiture) and an averment of material facts upon  
28 which the forfeiture action is based.
- 29 (6) A prayer for an order of forfeiture that the  
30 property be adjudged forfeited to the Commonwealth and

1 condemned and be ordered sold according to law, unless cause  
2 be shown to the contrary.

3 (b) Notice to property owners.--A copy of the petition  
4 required under subsection (a) shall be served personally or by  
5 certified mail on the owner or upon the person or persons in  
6 possession at the time of the seizure. The copy shall have  
7 endorsed a notice, as follows:

8 To the Claimant of within Described Property:

9 You are required to file an answer to this petition, setting  
10 forth your title in, and right to possession of, said  
11 property within 30 days from the service hereof, and you are  
12 also notified that, if you fail to file said answer, a decree  
13 of forfeiture and condemnation will be entered against said  
14 property.

15 The notice shall be signed by the Attorney General, Deputy  
16 Attorney General, district attorney, deputy district attorney or  
17 assistant district attorney.

18 (c) Substitute notice.--If the owner of the property is  
19 unknown or there was no person in possession of the property  
20 when seized or if the owner or such person or persons in  
21 possession at the time of the seizure cannot be personally  
22 served or located within the jurisdiction of the court, notice  
23 of the petition shall be given by the Commonwealth through an  
24 advertisement in only one newspaper of general circulation  
25 published in the county where the property shall have been  
26 seized, once a week for two successive weeks. No other  
27 advertisement of any sort shall be necessary, any other law to  
28 the contrary notwithstanding. The notice shall contain a  
29 statement of the seizure of the property with a description of  
30 the property and the place and date of seizure and shall direct

1 any claimants to the property to file a claim on or before a  
2 date 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 (d) Property owners not in jurisdiction.--For purposes of  
7 this section, the owner or other such person cannot be found in  
8 the jurisdiction of the court if:

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

11 (2) personal service is attempted once, but cannot be  
12 made at the last known address; and

13 (3) a copy of the petition is left at the last known  
14 address.

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

21 (f) Preservation of the property subject for forfeiture.--  
22 Upon application of the Commonwealth, the court may enter a  
23 restraining order or injunction, require the execution of a  
24 satisfactory performance bond or take any other action to  
25 preserve the availability of property described in section  
26 6801(a) or 6801.1(a) for forfeiture under this section either:

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

1 would be subject to forfeiture; or

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

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

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

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

20 (g) Temporary restraining order.--A temporary restraining  
21 order under subsection (f) may be entered upon application of  
22 the Commonwealth without notice or opportunity for a hearing  
23 when an information or indictment has not yet been filed with  
24 respect to the property, if the Commonwealth demonstrates that  
25 there is probable cause to believe that the property with  
26 respect to which the order is sought would be subject to  
27 forfeiture under this chapter and that provision of notice will  
28 jeopardize the availability of the property for forfeiture. Such  
29 a temporary order shall expire not more than ten days after the  
30 date on which it is entered, unless extended for good cause

1 shown or unless the party against whom it is entered consents to  
2 an extension for a longer period. A hearing requested concerning  
3 an order entered under this subsection shall be held at the  
4 earliest possible time and prior to the expiration of the  
5 temporary order.

6 (h) Hearing regarding property; rules of evidence.--The  
7 court may receive and consider, at a hearing held pursuant to  
8 subsection (f) or (g), evidence and information that would be  
9 inadmissible under the rules of evidence.

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

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

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

21 (2) That the claimant lawfully acquired the property.

22 (3) That it was not unlawfully used or possessed by him.

23 In the event that it shall appear that the property was  
24 unlawfully used or possessed by a person other than the  
25 claimant, then the claimant shall show that the unlawful use  
26 or possession was without his knowledge or consent. Such  
27 absence of knowledge or consent must be reasonable under the  
28 circumstances presented.

29 (k) Court-ordered release of property.--If a person claiming  
30 the ownership of or right of possession to or claiming to be the

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

17 Section 11. Sections 4909(c), 9405 and 9406 of Title 75 are  
18 amended to read:

19 § 4909. Transporting foodstuffs in vehicles used to transport  
20 waste.

21 \* \* \*

22 (c) Vehicle forfeiture.--Any vehicle or conveyance used in  
23 the commission of an offense under this section shall be deemed  
24 contraband and forfeited [to the Department of Environmental  
25 Resources. The provisions of law relating to the seizure,  
26 summary and judicial forfeiture, and condemnation of  
27 intoxicating liquor shall apply to seizures and forfeitures  
28 under this section. Proceeds from the sale of forfeited vehicles  
29 or conveyances shall be deposited in the Solid Waste Abatement  
30 Fund.] in accordance with 42 Pa.C.S. §§ 5803 (relating to asset



1 forfeiture), 5805 (relating to forfeiture procedure), 5806  
2 (relating to motion for return of property), 5807 (relating to  
3 restrictions on use), 5807.1 (relating to prohibition on  
4 adoptive seizures) and 5808 (relating to exceptions).

5 \* \* \*

6 § 9405. Forfeitures; process and procedures.

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

10 (1) Any liquid fuels or fuels produced in or imported  
11 into this Commonwealth by any distributor who does not  
12 possess a valid liquid fuels tax permit or fuels permit as  
13 required by section 9003 (relating to liquid fuels and fuels  
14 permits; bond or deposit of securities), except liquid fuels  
15 or fuels imported in barrels, drums or similar containers  
16 with a capacity of not more than 55 gallons in each barrel,  
17 drum or container.

18 (2) All conveyances, including vehicles or vessels, used  
19 to transport liquid fuels or fuels as described in paragraph  
20 (1) ]. [except:

21 (i) no conveyance used by any person as a common  
22 carrier in the transaction of business as a common  
23 carrier is subject to forfeiture under this section  
24 unless it appears that the owner or other person in  
25 charge of the conveyance is a consenting party or privy  
26 to a violation of Chapter 90 (relating to liquid fuels  
27 and fuels tax); and

28 (ii) no bona fide security interest retained or  
29 acquired under Title 13 (relating to commercial code) by  
30 any merchant dealing in new or used vehicles or vessels,

1 or retained or acquired by any licensed or regulated  
2 finance company, bank, lending institution or by any  
3 other business regularly engaged in the financing of or  
4 lending on the security of such vehicles or vessels,  
5 shall be subject to forfeiture or impairment.] Forfeiture  
6 of such conveyances shall be conducted in accordance with  
7 42 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805  
8 (relating to forfeiture procedure), 5806 (relating to  
9 motion for return of property), 5807 (relating to  
10 restrictions on use), 5807.1 (relating to prohibition on  
11 adoptive seizures) and 5808 (relating to exceptions).

12 (b) Method of seizure.--[Property] Liquid fuels or fuels  
13 subject to forfeiture under this section may be seized by the  
14 Department of Revenue upon process issued by any court of common  
15 pleas having jurisdiction over the property. [Seizure without  
16 process may be made if the seizure is incident to an inspection  
17 or arrest for a violation of this chapter or Chapter 90.

18 (c) Limit on return of property.--

19 (1) No property seized in accordance with this section,  
20 when in the custody of the Department of Revenue, shall be  
21 seized or taken therefrom by any writ of replevin or other  
22 judicial process unless a petition for forfeiture is not  
23 timely filed.

24 (2) Any liquid fuels or fuels seized under this section  
25 may be immediately used for any public purpose or sold to any  
26 person at the discretion of the Secretary of Revenue. If such  
27 liquid fuels or fuels are determined not to be subject to  
28 forfeiture, they need not be returned to the owner or any  
29 other person making a claim thereto, but at the option of the  
30 Secretary of Revenue an amount equal to the wholesale value

1 of the liquid fuels or fuels as determined on the date of  
2 seizure may be returned.

3 (d) In rem proceedings.--The proceedings for the forfeiture  
4 of any liquid fuels or fuels or conveyances seized under this  
5 section shall be in rem. The Commonwealth shall be the plaintiff  
6 and the property shall be the defendant. A petition shall be  
7 filed, within five days after seizure, in the court of common  
8 pleas of the county in which the property was seized by revenue  
9 agents of the Department of Revenue, verified by oath or  
10 affirmation of any revenue agent. In the event that the petition  
11 is not filed within the time prescribed herein, the seized  
12 property shall be immediately returned to the person from whom  
13 seized or the owner thereof.

14 (e) Contents of petition.--The petition shall contain the  
15 following:

16 (1) The description of the property seized.

17 (2) A statement of the time when and the place where  
18 seized.

19 (3) The name and address of the owner, if known.

20 (4) The name and address of the person who was in  
21 possession of the property at the time of seizure, if known.

22 (5) A statement of the circumstances under which the  
23 property was seized.

24 (6) A prayer for an order forfeiting the property to the  
25 Commonwealth, unless cause be shown to the contrary.

26 (f) Service of process.--A copy of the petition shall be  
27 served on the owner if he can be found within this Commonwealth  
28 in any manner provided by law for service of process or a  
29 complaint in an action in assumpsit. If the owner cannot be  
30 found within this Commonwealth, a copy of the petition shall be

1 served on the owner by registered mail or certified mail, return  
2 receipt requested, addressed to the last known address of the  
3 owner. The person in possession of the property and all  
4 encumbrance holders having a perfected security interest in the  
5 property confiscated shall be notified in a like manner. Copies  
6 shall have endorsed thereon a notice substantially similar to  
7 the following:

8           To the claimant of the within property: You are required  
9           to file an answer to this petition setting forth your  
10          title in and right to possession of the property within  
11          20 days from the service hereof, and you are also  
12          notified that, if you fail to file an answer, a decree of  
13          forfeiture will be entered against the property.

14 The notice shall be signed by the petitioner or his attorney.

15          (g) Advertisement.--If the owner of the property is unknown,  
16 notice of the petition shall also be given by an advertisement  
17 in only one newspaper of general circulation published in the  
18 county where the property was seized, once a week for two  
19 successive weeks. No other advertisement of any sort shall be  
20 necessary, any other law to the contrary notwithstanding. The  
21 notice shall contain a statement of the seizure of the property,  
22 with the description thereof and the place and date of seizure,  
23 and shall direct any claimants thereof to file a claim therefor  
24 on or before a date given in the notice which shall not be less  
25 than ten days from the date of the last publication.

26          (h) Hearing date.--Upon the filing of any claim for the  
27 property setting forth a right of possession thereof, the case  
28 shall be deemed at issue, and a hearing shall be held within  
29 five days thereof.

30          (i) Standard of proof.--The claimant shall have the burden

1 of proving that he is not subject to the provisions of this  
2 section, but the burden of proof shall be upon the Commonwealth  
3 to prove all other facts necessary for the forfeiture of the  
4 property. In the event that the Commonwealth has not met its  
5 burden by a preponderance of the evidence or the claimant has  
6 proved that he is not subject to the provisions of this section,  
7 the court shall order the property returned to the claimant;  
8 otherwise, the court shall order the property forfeited to the  
9 Commonwealth. In the case of a motor vehicle, vessel or  
10 conveyance, should the claimant prove to the satisfaction of the  
11 court that he is the registered owner of the motor vehicle,  
12 vessel or conveyance and that he did not know or have reason to  
13 know that it was being used to transport liquid fuels or fuels  
14 in violation of the provisions of section 9404 (relating to  
15 violations and penalties) or 9019 (relating to diesel fuel  
16 importers and transporters; prohibiting use of dyed diesel fuel  
17 on highways; violations and penalties), the court in its  
18 discretion may order the motor vehicle, vessel or conveyance  
19 returned to the claimant.

20 (j) Encumbered motor vehicle.--In the case of a motor  
21 vehicle, should the claimant prove that he holds a valid  
22 encumbrance upon such motor vehicle, notice of which encumbrance  
23 has been duly noted on the certificate of title to the motor  
24 vehicle in accordance with the provisions of Chapter 11  
25 (relating to certificate of title and security interests), the  
26 forfeiture shall be subject to such encumbrance as of the date  
27 of the seizure less prepaid or unearned interest. Before the  
28 motor vehicle may be sold, exchanged or otherwise transferred or  
29 retained for use by the Commonwealth, the outstanding amount of  
30 the encumbrance shall be paid to the claimant or possession of

1 the motor vehicle shall be turned over to the claimant who shall  
2 expose the same to public sale and shall pay over to the  
3 Commonwealth any amount realized in excess of the outstanding  
4 amount of such encumbrance less the reasonable costs incurred by  
5 claimant in conducting such sale.]

6 § 9406. Disposition of fines and forfeitures.

7 All fines imposed under this chapter and the net proceeds  
8 received from the sale of forfeited [property] liquid fuels or  
9 fuels shall be payable to the Commonwealth and credited to the  
10 Motor License Fund.

11 Section 12. Notwithstanding any other provision of law to  
12 the contrary, the following forfeitures shall be conducted in  
13 accordance with 42 Pa.C.S. §§ 5803, 5805, 5806, 5807, 5807.1 and  
14 5808:

15 (1) The forfeiture of property specified in section 1 of  
16 the act of July 3, 1941 (P.L.263, No.121), entitled "An act  
17 providing for the forfeiture and condemnation of vehicles  
18 used to store, possess or transport narcotics or drugs, the  
19 possession or transportation of which is in violation of  
20 law."

21 (2) The forfeiture of property specified in section 601  
22 of the act of April 12, 1951 (P.L.90, No.21), known as the  
23 Liquor Code.

24 (3) The forfeiture of property specified in section 614  
25 of the act of July 7, 1980 (P.L.380, No.97), known as the  
26 Solid Waste Management Act.

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

30 Section 13. Repeals are as follows:

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

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

7           (3) Sections 2, 3, 4 and 5 of the act of July 3, 1941  
8 (P.L.263, No.121), entitled "An act providing for the  
9 forfeiture and condemnation of vehicles used to store,  
10 possess or transport narcotics or drugs, the possession or  
11 transportation of which is in violation of law," are repealed  
12 absolutely.

13 Section 14. This act shall take effect as follows:

14           (1) This section shall take effect immediately.

15           (2) The remainder of this act shall take effect July 1,  
16 2017, or immediately, whichever is later.