



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

SENATE BILL NO. 8

PRINTERS NO. 719

PRIME SPONSOR: Folmer

### COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
General Fund	\$0	See Fiscal Impact

#### SUMMARY:

Senate Bill 8, Printer's Number 719 amends Title 4 (Amusements), Title 18 (Crimes and Offenses), Title 30 (Fish), Title 42 (Judiciary and Judicial Procedure) and Title 75 (Vehicles) providing for the forfeiture of certain assets and property.

#### ANALYSIS:

SB8 amends Title 42 by adding a new Chapter 58 (Forfeiture of Assets) as follows:

**Section 5802** (Controlled Substance forfeiture), outlines the types of property that can be forfeited when there is a violation of the Controlled Substance, Drug, Device and Cosmetic Act (P.L. 233, No. 64).

**Section 5803** (Asset forfeiture), outlines when property is subject to forfeiture and is subject to seizure and how it can be used. The section reinstates the existing annual reporting requirement from every county to the Office of Attorney General (OAG).

**Section 5805** (Forfeiture procedure), outlines the forfeiture procedures; forfeiture petitions, notice requirements, hardship hearings and burden of proof at trial.

**Section 5806** (Motion for return of property), outlines the process for individuals to seek the release of property they think was seized inappropriately.

**Section 5807** (Restrictions of use), outlines prohibited uses of forfeiture funds.

**Section 5807.1** (Prohibition on adoptive seizures), prohibits state law enforcement from referring seized property to the Federal government.

**Section 5807.2** (Federal reporting requirements) requires a copy of equitable sharing agreement and certification form filed with US Justice Department within last 12 months to be included in the audit required in Section 5803(j).

**Section 5808** (Exceptions), outlines specific property not applicable to forfeiture procedures under Chapter 58.

SB 8 makes technical changes to the following statutes to ensure that the new Chapter 58 established in Title 42, relating to forfeiture, will apply to these sections of law.

**Title 4 (Amusements)**-Section 1518 (f) (property subject to seizure, confiscation, destruction or forfeiture)

**Title 18 (Crimes and Offenses)**-Sections 2717 (Terrorism), 3141 (General rule), 4116(i) (Copying; recording devices), 4119(f) (2)(i) (Trademark counterfeiting), 5513 (b) (Gambling devices, gambling, etc.), 5707 (Seizure and forfeiture of electronic, mechanical or other devices), 6314 (f)(Sentencing and penalties for trafficking drugs to minors), 6501(b) (5)) and (d) (Scattering rubbish), 7508(e) (Drug trafficking sentencing and penalties), 7707 (Loss of property rights to the Commonwealth).

**Title 30 (Fish)**-Section 927 (Forfeiture of fish and devices).

**Title 75 (Vehicles)**-Section 4909(c) (Transporting foodstuffs in vehicles used to transport waste), 9405 (Forfeitures, process and procedures) and 9406 (Disposition of fines and forfeitures).

**“Providing for the Forfeiture of Vehicles Transporting Drugs”** (P.L. 263, No. 121) Section 1.

**Liquor Code** (P.L. 90, No. 21) Section 601 (Forfeiture of Property Illegally Possessed or Used).

**Solid Waste Management Act** (P.L. 380, No.97) Section 614 (Forfeiture of contraband).

**Municipal Waste Planning, Recycling and Waste Reduction Act** (P.L. 556, No. 101) Section 1715 (Additional Penalties).

SB 8 repeals the following provisions of law:

**Title 18 (Crimes and Offenses)**

Sections 3142 (process and seizure), 3143 (custody of property), 3144 (Disposal of property) and 7708 (Procedure with respect to seized property subject to liens and rights of lienholders).

**Title 42 (Judiciary and Judicial Procedure)**

Sections 6801(Controlled substance forfeiture), 6801.1 (Terrorism forfeiture) and 6802(Procedure with respect to seized property subject to liens and rights of lienholders).

**“Providing for the Forfeiture of Vehicles Transporting Drugs”** (P.L. 263, No. 121) Section 2, 3, 4 and 5.

**Liquor Code** (P.L. 90, No. 21) Section 602 and 603

**FISCAL IMPACT:**

The below charts are abstracts from the Office of the Attorney General (OAG) annual reports submitted to the Appropriations and Judiciary Committees of the Senate and House of Representatives, providing the General Assembly with an accounting of property forfeited under the Motor Vehicle Chop Shop and Illegally Obtained and Altered Property Act and the Controlled Substances Forfeiture Act.

<b>Assest Forfeiture FY 2014: Drug</b>				
<b>Revenue</b>	<b>OAG</b>	<b>PSP</b>	<b>Probation and Parole</b>	<b>Counties</b>
Cash Forfeiture	\$ 2,025,837.00	\$ 3,271,263.73	\$ 852.28	\$ 7,018,927.07
Sale of Forfeited Property	\$ 191,662.12	\$ 142,999.22		\$ 1,335,779.20
Restitioution	\$ 130,306.85			
Interest	\$ 11,329.57			\$ 21,112.02
Other				\$ 337,866.94
Proceeds received from Shared Forfeiture				\$ 4,336,034.28
<b>TOTALS</b>	<b>\$ 2,359,135.54</b>	<b>\$ 3,414,262.95</b>	<b>\$ 852.28</b>	<b>\$ 13,049,719.51</b>

<b>Assest Forfeiture FY 2014: Chop Shop</b>				
<b>Revenue</b>	<b>OAG</b>	<b>PSP</b>	<b>Probation and Parole</b>	<b>Counties</b>
Cash Forfeiture		\$ 2,133.82		\$ 1,203.20
Sale of Forfeited Property		\$ 10,495.44		\$ 416.90
Restitioution				
Interest	\$ 151.62			\$ 71.78
Other				
Proceeds received from Shared Forfeiture				\$ 1,252.65
<b>TOTALS</b>	<b>\$ 151.62</b>	<b>\$ 12,629.26</b>		<b>\$ 2,944.53</b>

Based on the OAG Fiscal Year 2014/2015 Asset Forfeiture Report (above tables) an estimated revenue loss would be as follows:

<b>Estimated Revenue Loss</b>	<b>OAG</b>	<b>PSP</b>	<b>Probation &amp; Parole</b>
5%	\$ 117,964.36	\$ 171,344.61	\$ 42.61
10%	\$ 235,928.72	\$ 342,689.22	\$ 85.23

In addition, the OAG estimates that due to the increased reporting requirements provided in SB 8, a new computer system will have to be developed to comply with the provisions of this legislation, the estimated cost associated with developing this system is \$450,000.

**PREPARED BY:** Jenny P. Stratton  
House Appropriations Committee (R)

**DATE:** June 19, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*