THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 869  Session of 2015

INTRODUCED BY FOLMER, WILLIAMS, LEACH, FARNES, COSTA, MENSCH, WOZNIAK, BARTOLOTTA, HAYWOOD, DINNIMAN AND BLAKE,
JUNE 4, 2015

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, SEPTEMBER 26, 2016

AN ACT

Amending Titles 4 (Amusements), 18 (Crimes and Offenses), 30 (Fish), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in administration and enforcement relating to gaming, further providing for prohibited acts and penalties; in inchoate crimes, further providing for the offense of manufacture, distribution, use of possession of devices for theft of telecommunication services; in criminal homicide, further providing for drug delivery resulting in death; in loss of property rights relating to sexual offenses, further providing for general rule; repealing provisions relating to process and seizure, to custody of property and to disposal of property; in forgery and other fraudulent practices, further providing for the offenses of copying and recording devices and of trademark counterfeiting; in riot, disorderly conduct and related offenses, further providing for the offense of gambling devices, gambling, etc., in wiretapping and electronic surveillance, further providing for seizure and forfeiture of electronic mechanical or other devices; in minors, further providing for sentencing and penalties for trafficking drugs to minors; in nuisances, further providing for the offense of scattering rubbish; in other offenses, further providing for drug trafficking sentencing and penalties; in vehicle chop shop and illegally obtained and altered property, further providing for loss of property rights to Commonwealth; repealing provisions relating to procedure with respect to seized property subject to liens and rights of lienholders; in enforcement relating to Fish and Boat Code, further providing for forfeiture of fish and devices; adding provisions relating to asset forfeiture in Judicial Code; in forfeitures, further providing for controlled substances forfeiture and procedure with respect to seized property subject to liens and rights of
lienholders; in size, weight and load relating to Vehicle
Code, further providing for transporting foodstuffs in
vehicles used to transport waste; in liquid fuels and fuel
use tax enforcement, further providing for forfeitures,
process and procedures and for disposition of fines and
forfeitures; and making repeals of provisions of the Liquor
Code, the Tax Reform Code of 1971 and another act relating to
certain forfeiture of property. AMENDING TITLES 4
(AMUSEMENTS), 18 (CRIMES AND OFFENSES), 30 (FISH), 42
(JUDICIARY AND JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF THE
Pennsylvania Consolidated Statutes, in Administration and
Enforcement relating to Gaming, further providing for
Prohibited acts and penalties; in Inchoate Crimes, further
providing for the Offense of Manufacture, Distribution, Use
or possession of devices for theft of telecommunications
Services; in assault, further providing for the offense of
Terrorism; in loss of property rights relating to sexual
offenses, further providing for general rule, repealing
provisions relating to process and seizure, to custody of
property and to disposal of property; in forgery and
fraudulent practices, further providing for the offenses of
copying and recording devices and for trademark
counterfeiting; in riot, disorderly conduct and related
offenses, further providing for the offense of gambling
devices, gambling, etc.; in wiretapping and electronic
surveillance, further providing for seizure and forfeiture of
electronic, mechanical or other devices; in minors, further
providing for sentencing and penalties for trafficking drugs
to minors; in nuisances, further providing for the offense of
scattering rubbish; in other offenses, further providing for
drug trafficking sentencing and penalties; in vehicle chop
shop and illegally obtained and altered property, further
providing for loss of property rights to commonwealth and
repealing provisions relating to procedure with respect to
seized property subject to liens and rights of lienholders;
in enforcement relating to fish and boat code, further
providing for forfeiture of fish and devices; in actions,
proceedings and other matters generally relating to judicial
code, adding provisions relating to forfeiture of assets; in
forfeitures, further providing for controlled substances
forfeiture and repealing provisions relating to terrorism
forfeiture and to procedure with respect to seized property
subject to liens and rights of lienholders; in size, weight
and load relating to vehicle code, further providing for
transporting foodstuffs in vehicles used to transport waste;
in liquid fuels and fuel use tax enforcement, further
providing for forfeitures and process and procedures and for
disposition of fines and forfeitures; providing for conduct
of forfeiture; and making repeals of provisions of the liquor
code, the tax reform code of 1971 and another act relating to
certain forfeiture of property.

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

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

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§ 1518. Prohibited acts; penalties.

***(f) Property subject to seizure, confiscation, destruction or forfeiture.--Any equipment, device or apparatus, money, material, gaming proceeds or substituted proceeds or real or personal property used, obtained or received or any attempt to use, obtain or receive the device, apparatus, money, material, proceeds or real or personal property in violation of this part shall be subject to [seizure, confiscation, destruction or forfeiture] the provisions of 42 Pa.C.S. Ch. 50 (relating to asset forfeiture).

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

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

***(c.1) Forfeiture of unlawful telecommunication devices.-- Upon conviction of a defendant under this section, the court may, in addition to any other sentence authorized by law, direct that the defendant forfeit any unlawful telecommunication devices in the defendant's possession or control which were involved in the violation for which the defendant was convicted. The forfeiture shall be conducted in accordance with 42 Pa.C.S. Ch. 50 (relating to asset forfeiture).

***(f) Forfeiture.--Assets against which [a forfeiture petition] an information or indictment seeking forfeiture has been filed and is pending or against which the Commonwealth has
indicated an intention to file [a forfeiture petition] an
information or indictment seeking a forfeiture shall not be
subject to a fine. Nothing in this section shall prevent a fine
from being imposed on assets which have been subject to an
unsuccessful forfeiture [petition] proceeding.
§ 3141. General rule.

A person:

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

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

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

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

§ 3142. Process and seizure.

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

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

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

§ 3143. Custody of property.
Property taken or detained under this subchapter is deemed to
be the property of the law enforcement authority having custody
thereof and is subject only to the court of common pleas having
jurisdiction over the criminal or forfeiture proceedings, the
district attorney in the matter or the Attorney General.

§ 3144. Disposal of property.
Property taken or detained pursuant to the provisions of this
subchapter shall be sold in the manner of property forfeited
under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net
proceeds, as determined by the law enforcement authority having
custody thereof, shall be utilized for investigation or
prosecution of sexual offenses or donated to nonprofit
charitable institutions which provide counseling and other
assistance to victims of sexual offenses.

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

§ 4116. Copying; recording devices.

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(i) Forfeiture.—

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

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

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

§ 4119. Trademark counterfeiting.

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(f) Seizure, forfeiture and disposition.—

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

(2) (i) All seized personal property and property

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constituting or derived from any proceeds referenced in paragraph (1) shall be forfeited in accordance with [the procedures set forth in section 6501(d) (relating to scattering rubbish)] 42 Pa.C.S. Ch. 58 (relating to asset forfeiture).

* * *

§ 5513. Gambling devices, gambling, etc.

* * *

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

* * *

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

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

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

* * *

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

§ 6501. Scattering rubbish.

(b) Penalty.

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

(d) Forfeiture.

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

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

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

or

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

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

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

(i) A description of the property seized.

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

(iii) The owner, if known.

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

(v) An allegation that the property is subject to forfeiture pursuant to this subsection and an averment of material facts upon which the forfeiture action is based.

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

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

To the Claimant of within Described Property:
You are required to file an answer to this petition,
setting forth your title in, and right to possession of,
the property within 30 days from the service hereof, and
you are also notified that, if you fail to file the
answer, a decree of forfeiture and condemnation will be
entered against the property.
The notice shall be signed by the district attorney, deputy
district attorney or assistant district attorney.

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

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

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

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

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

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

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

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

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

(ii) That the claimant lawfully acquired the property.

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

(11) If a person claiming the ownership of or right of possession to or claiming to be the holder of a chattel mortgage or contract of conditional sale upon the property, the disposition of which is provided for in this section, prior to the sale presents a petition to the court alleging over the property lawful ownership, right of possession, a lien or reservation of title and if, upon public hearing, due notice of which having been given to the district attorney, the claimant shall prove by competent evidence to the satisfaction of the court that the property was lawfully acquired, possessed and used by him or, it appearing that the property was unlawfully used by a person other than the claimant, that the unlawful use was without the claimant's knowledge or consent, then the court may order the property returned or delivered to the claimant. Such absence of knowledge or consent must be reasonable under the circumstances presented. Otherwise, it shall be retained for official use or sold in accordance with paragraph (4).}
§ 7508. Drug trafficking sentencing and penalties.

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

§ 7707. Loss of property rights to Commonwealth.

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

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

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

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

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

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

(b) Exceptions.

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

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

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

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

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

(3) there is probable cause to believe that the property
is dangerous to health or safety; or
(4) there is probable cause to believe that the property has been used or is intended to be used in violation of this chapter.

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

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

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

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

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

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

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

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

(2) The district attorney or the Office of Attorney General, where appropriate, may:
(i) Retain the property for official use.

(ii) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, but the proceeds from any such sale must be used to pay all proper expenses of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be dealt with in accordance with subsections (g) and (h).

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

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

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

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

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

Section 5. Section 7708 of Title 18 is repealed:

§ 7708. Procedure with respect to seized property subject to liens and rights of lienholders.

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

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

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

To the claimant of within described property: You are
required to file an answer to this petition, stating your
title in and right to possession of the property within 30
days from the service of this petition, and you are also
notified that, if you fail to file an answer, a decree of
forfeiture and condemnation will be entered against the
property.
The notice shall be signed by the Attorney General, Deputy Attorney General, district attorney, deputy district attorney or assistant district attorney.

(c) Substitute notice.--

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

(2) The notice shall:

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

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

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

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

(1) A copy of the petition is mailed to the last known address by certified mail and is returned without a delivery.
(2) A personal service is attempted once but cannot be
made at the last known address.

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

(e) Notice automatically waived.——

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

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

(f) Preservation of the property subject for forfeiture.—

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

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

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

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

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

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

(g) Temporary restraining order.--

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

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

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

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

(i) extended for good cause shown; or

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

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

(h) Hearing regarding property; rules of evidence.—The

court may receive and consider at a hearing held under

subsection (f) or (g) evidence and information that would be

inadmissible under the rules of evidence.

(i) Hearing time set.—Upon the filing of a claim for the

property setting forth a right of possession, the case shall be

deemed at issue, and a time shall be fixed for the hearing.

(j) Owner's burden of proof.—At the time of the hearing, if

the Commonwealth produces evidence that the property in question

was unlawfully used, possessed or otherwise subject to

forfeiture under section 7706 (relating to presumptions), the

burden shall be upon the claimant to show that:

(1) The claimant is the owner of the property or the

holder of a chattel mortgage or contract of conditional sale—

thereon.

(2) The claimant lawfully acquired the property.

(3) It was not unlawfully used or possessed by the

claimant. In the event that it shall appear that the property

was unlawfully used or possessed by a person other than the

claimant, then the claimant must show that the unlawful use

or possession was without the claimant's knowledge or

consent. Such absence of knowledge or consent must be

reasonable under the circumstances presented.

(k) Court-ordered release of property.

(1) If a person claiming the ownership of or right of

possession to or claiming to be the holder of a chattel—

mortgage or contract of conditional sale upon the property,

the disposition of which is provided for in this section,

prior to the sale presents a petition to the court alleging—
over the property lawful ownership, right of possession, a-
lien or reservation of title and if, upon public hearing, due-
notice of which having been given to the Office of Attorney-
General or the district attorney, the claimant proves by-
competent evidence to the satisfaction of the court:

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

(ii) if it appears that the property was unlawfully-
used by a person other than the claimant, that the
unlawful use was without the claimant's knowledge or
consent,
then the court may order the property returned or delivered
to the claimant.

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

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

§ 927. Forfeiture of fish and devices.

(a) General rule.—A person convicted of an offense under-
this title shall forfeit any fish seized under section 901(6)
(relating to powers and duties of waterways patrolmen and-
deputies) and any device confiscated under this title.
Forfeitures shall be conducted in accordance with 42 Pa.C.S. Ch.
50 (relating to asset forfeiture).

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

Section 7. Title 42 is amended by adding a chapter to read:
CHAPTER 58

ASSET FORFEITURE

Sec.

§ 5801. Scope of criminal asset forfeiture.

§ 5802. Criminal asset forfeiture in general.

§ 5803. Process for criminal asset forfeiture.

§ 5804. Process for third-party interest holders.

§ 5805. Interaction with the Federal Government.

§ 5801. Scope of criminal asset forfeiture.

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

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

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

(3) Sections 207, 211 and 505 of the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law.

(4) 18 Pa.C.S. § 3021 (relating to asset forfeiture);

(5) 18 Pa.C.S. § 5511 (relating to cruelty to animals);

(6) 18 Pa.C.S. § 6110.1 (relating to possession of firearm by minor);

(7) 18 Pa.C.S. § 6321 (relating to transmission of sexually explicit images by minor);

(8) 27 Pa.C.S. § 6208 (relating to penalties);

(9) 37 Pa.C.S. § 511 (relating to criminal penalties);

(10) 42 Pa.C.S. § 6801.1 (relating to terrorism forfeiture);

(11) 75 Pa.C.S. § 9405 (relating to forfeitures; process—
(b) Contraband per se exempted.--Nothing in this chapter shall be construed to apply to the forfeiture of contraband per se, the possession of which is inherently unlawful. Such forfeiture includes, but is not limited to, forfeiture of the following:

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

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

(3) unlawfully stamped cigarettes under section 307 of the act of December 30, 2003 (P.L.441, No.64), known as the Tobacco Product Manufacturer Directory Act.


(c) Conflicting law superseded.--The procedures in this chapter shall supersede any conflicting provisions of other State laws.

(d) Preemption.--This chapter preempts any local ordinance or regulation insofar as it is inconsistent with this chapter, irrespective of the effective date of the ordinance or regulation.

§ 5802. Criminal asset forfeiture in general.

(a) Criminal in form.--Unless otherwise provided, forfeitures under this chapter are criminal.

(b) Forfeiture disfavored.--Forfeitures are not favored under State law and any ambiguity in this chapter shall be
strictly construed against the Commonwealth.

(c) Forfeitures generally.--

(1) After a person is convicted of an offense for which forfeiture is expressly authorized as a penalty, the following shall be subject to forfeiture to the Commonwealth and no property right shall exist in them:

(i) The convicted person's property constituting or derived from any proceeds obtained directly from the commission of the offense.

(ii) The convicted person's property that:

(A) Was used or intended to be used to commit or facilitate the commission of the offense.

(B) Bears a significant relationship to the offense.

(2) No additional penalties, including, but not limited to, personal money judgments, shall be authorized under this chapter except as provided by section 5803(k) (relating to process for criminal asset forfeiture). Any restitution made to a victim using property forfeited under this chapter shall serve to satisfy in part or in whole any restitution order against the convicted person.

(3) Nothing in this section shall be construed to prevent property from being forfeited by the terms of a plea agreement approved by a court or of any other agreement of the parties to a criminal proceeding. Forfeiture by agreement shall be subject to the requirements of section 5804 (relating to process for third-party interest holders).

(d) Claims for damage, loss or impermissible sale of property.--After a finding under this chapter that seized property is not subject to forfeiture, the property owner may
bring a claim against the law enforcement authority that had custody of the property and lost, damaged or impermissibly sold it.

(c) Use of property held in custody.

(1) Whenever property is forfeited under this chapter and after all ancillary proceedings under section 5804 are concluded, the property shall be transferred to the custody of the district attorney, if the law enforcement authority seizing the property has local or county jurisdiction, or the Attorney General, if the law enforcement authority seizing the property has Statewide jurisdiction.

(2) The district attorney or the Attorney General, as applicable, shall sell any forfeited property that is not required to be destroyed by law and is not harmful to the public.

(3) Sale of forfeited property to an employee of the district attorney or Attorney General, a person related to an employee by blood or marriage or another law enforcement authority is prohibited.

(4) The proceeds from sale shall be used to pay all reasonable expenses related to the maintenance of custody and sale of such property. The balance of the proceeds shall be subject to subsection (f).

(f) Use of cash or proceeds or property. Cash or proceeds of forfeited property transferred under subsection (c) shall be distributed in the following order:

(1) To satisfy any restitution orders for victims of the underlying offense.

(2) To pay any liabilities owed by the Commonwealth to defendants or claimants who substantially prevail under...
subsection (l).

(3) Either:

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

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

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

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

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

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

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

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

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

(2) Postjudgment interest.

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

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

(ii) An imputed amount of interest that the
currency, instruments or proceeds would have earned at
the rate applicable to the 30 day Treasury Bill, for any
period during which no interest was paid, not including
any period when the property reasonably was in use as
evidence in an official proceeding or in conducting
scientific tests for the purpose of collecting evidence,
commencing 15 days after the property was seized by a
State law enforcement authority or was turned over to a
State law enforcement authority by a Federal law

§ 5803. Process for criminal asset forfeiture.

(a) Seizure.—

(1) Property subject to forfeiture under this chapter—

may be seized by a law enforcement authority upon process—

issued by any court of common pleas having jurisdiction.

(2) Seizure without process may be made if:

(i) the seizure is incident to an arrest or a search—

under a search warrant or inspection under an—

administrative inspection warrant and there is probable—

cause to believe that the property is subject to—

forfeiture under section 5802(c)(1) (relating to criminal—

asset forfeiture in general);

(ii) the property subject to seizure has been the—

subject of a prior judgment in favor of the Commonwealth—

in a criminal injunction or forfeiture proceeding under—

this chapter; or

(iii) there is probable cause to believe that the—

property is subject to forfeiture under section 5802(c)—

(1) and process or delay is likely to result in the—

destruction or removal of the property or in its—

otherwise being made unavailable for forfeiture.

(b) Seizure of real property. Absent exigent circumstances—

no real property subject to forfeiture shall be seized unless—

the Commonwealth first provides property owners and occupants—

with notice and an opportunity for a hearing. The hearing shall—

be conducted in accordance with subsections (d) and (e).

(c) Receipt for seized property. When property is seized—

the law enforcement authority shall provide an itemized receipt—

to the person in possession of the property or, in the absence—
of any person, leave a receipt in the place where the property was found, if reasonably possible. The receipt shall provide notice of the right of interest holders to move for the return of seized property under subsections (d) and (e).

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

(e) Hardship release of property subject to forfeiture. When the defendant or another putative interest holder in the property files a motion for the hardship release of property, the court shall order the release of seized property from the seizing law enforcement authority pending the final determination of forfeiture, if the putative interest holder establishes by a preponderance of the evidence that:

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

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

(i) preventing the functioning of a legitimate business;

(ii) preventing an individual from working;

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

(iv) preventing or hindering an individual from receiving necessary medical care;
(v) hindering the care of an elderly or disabled dependent child or adult;
(vi) leaving an individual homeless; or
(vii) any other condition that the court determines causes a substantial hardship;

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

(f) Initiation of forfeiture.—

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

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

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

(ii) A statement of the time and place of the offense.
(iii) A description of the particular use of the property in the commission of the offense or derivation therefrom.

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

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

(i) Right to trial by jury.—

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

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

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

(j) Excessive fines.—

(1) In order to enter a preliminary order of forfeiture under section 5802(c)(1)(ii), the court must make a determination that the forfeiture is not grossly disproportional to the gravity of the underlying offense.
(2) The Commonwealth shall have the burden of establishing proportionality by clear and convincing evidence.

(3) The value of property forfeited shall be determined by considering, among other factors:
   (i) Its market value.
   (ii) Its subjective value to the defendant and the defendant's family members.

(4) The gravity of the offense shall be determined by considering, among other factors:
   (i) The penalty imposed as compared to the maximum penalty available for the offense upon which the forfeiture is based.
   (ii) Whether the offense was isolated or part of a pattern of criminal conduct.
   (iii) The specific harm resulting from the offense upon which the forfeiture is based.

(k) Forfeiture of substitute property.—
(1) After entering a preliminary order of forfeiture, the court may order the forfeiture of substitute property up to the value of the property subject to the order, if the Commonwealth establishes by clear and convincing evidence that:
   (i) The convicted person intentionally transferred, sold or deposited the property to avoid the court's jurisdiction.
   (ii) The substitute property is owned solely by the convicted person.

(2) No codefendant shall be subject to joint and several liability for forfeiture judgments owed by other defendants.
§ 5804. Process for third-party interest holders.

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

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

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

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

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

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

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

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

(2) A statement that either:

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

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

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

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

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

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

(d) Substitute notice.—If a potential claimant cannot be
personally served or located within the jurisdiction of the
court, notice of the petition shall be provided by the
Commonwealth through an advertisement reasonably calculated to
provide notice to the potential claimant:

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

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

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

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

(2) Personal service is attempted once, but cannot be
made at the last known address.
(3) A copy of the petition is left at the last known address.

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

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

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

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

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

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

(i) return of the petitioner's property;
(ii) reimbursement for the petitioner's legal interest in the forfeited property;
(iii) severance of the petitioner's property from
the forfeited property;

(iv) retention of the property by the petitioner
subject to a lien in favor of the State to the extent of
the forfeitable interest;

(v) any relief the court deems appropriate and just.

(i) Ancillary proceeding in general.

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

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

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

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

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

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

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

(j) Entering a final order.--

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

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

§ 5805. Interaction with the Federal Government.

(a) Prohibition on adoptive seizures. State law enforcement authorities shall not refer seized property to a Federal agency seeking the adoption by the Federal agency of the seized property. Nothing in this chapter shall be construed to prohibit the Federal Government, or any of its agencies, from seeking
Federal forfeiture.

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

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

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

§ 6801. Controlled substances forfeiture.
(a) Forfeitures generally.—The following shall be subject to forfeiture to the Commonwealth and no property right shall exist in them:

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

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

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

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

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

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

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

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

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

(6) (i) All of the following:

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

(B) Money, negotiable instruments, securities or
other things of value used or intended to be used to
facilitate any violation of The Controlled Substance,
Drug, Device and Cosmetic Act.
(C) Real property used or intended to be used to facilitate any violation of The Controlled Substance, Drug, Device and Cosmetic Act, including structures or other improvements thereon, and including any right, title and interest in the whole or any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of The Controlled Substance, Drug, Device and Cosmetic Act, and things growing on, affixed to and found in the land.

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

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

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

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

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

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

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

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

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

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

(1) remove the property to a place designated by it; or
(2) require that the district attorney or Attorney General take custody of the property and remove it to an appropriate location for disposition in accordance with law.

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

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

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

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

(h) Authorization to utilize property. The district
attorney and the Attorney General shall utilize forfeited
property or proceeds thereof for the purpose of enforcing the
provisions of The Controlled Substance, Drug, Device and
Cosmetic Act. In appropriate cases, the district attorney and
the Attorney General may designate proceeds from forfeited
property to be utilized by community-based drug and crime-
fighting programs and for relocation and protection of witnesses
in criminal cases.

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

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

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

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

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

(1) A description of the property seized.
(2) A statement of the time and place where seized.
(3) The owner, if known.
(4) The person or persons in possession, if known.
(5) An allegation that the property is subject to
forfeiture pursuant to section [6801(a) (relating to
controlled substances forfeiture) or] 6801.1(a) (relating to
terrorism forfeiture) and an averment of material facts upon
which the forfeiture action is based.
(6) A prayer for an order of forfeiture that the
property be adjudged forfeited to the Commonwealth and
condemned and be ordered sold according to law, unless cause
be shown to the contrary.

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

(1) upon the filing of an information or an indictment
charging an offense in this Commonwealth for which criminal
forfeiture may be ordered under this chapter and alleging
that the property with respect to which the order is sought
would be subject to forfeiture; or
(2) prior to the filing of such an indictment or
information, if, after notice to persons appearing to have an
interest in the property and an opportunity for a hearing,
the court determines that:

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

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

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

***

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

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

(2) That the claimant lawfully acquired the property.

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

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

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

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

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

***

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

§ 9405. Forfeitures; process and procedures.

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

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

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

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

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

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

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

***

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

***(i) Standard of proof. The claimant shall have the burden
of proving that he is not subject to the provisions of this
section, but the burden of proof shall be upon the Commonwealth
to prove all other facts necessary for the forfeiture of the
property. In the event that the Commonwealth has not met its
burden by a preponderance of the evidence or the claimant has
proved that he is not subject to the provisions of this section,
the court shall order the property returned to the claimant;
otherwise, the court shall order the property forfeited to the
Commonwealth. [In the case of a motor vehicle, vessel or
conveyance, should the claimant prove to the satisfaction of the
court that he is the registered owner of the motor vehicle,
vessel or conveyance and that he did not know or have reason to
know that it was being used to transport liquid fuels or fuels
in violation of the provisions of section 9404 (relating to
violations and penalties) or 9019 (relating to diesel fuel-
importers and transporters; prohibiting use of dyed diesel fuel
on highways; violations and penalties), the court in its
discretion may order the motor vehicle, vessel or conveyance
returned to the claimant.

(j) Encumbered motor vehicle. In the case of a motor
vehicle, should the claimant prove that he holds a valid
encumbrance upon such motor vehicle, notice of which encumbrance
has been duly noted on the certificate of title to the motor
vehicle in accordance with the provisions of Chapter 11
(relating to certificate of title and security interests), the
forfeiture shall be subject to such encumbrance as of the date
of the seizure less prepaid or unearned interest. Before the
motor vehicle may be sold, exchanged or otherwise transferred or
retained for use by the Commonwealth, the outstanding amount of
the encumbrance shall be paid to the claimant or possession of
the motor vehicle shall be turned over to the claimant who shall
expose the same to public sale and shall pay over to the
Commonwealth any amount realized in excess of the outstanding
amount of such encumbrance less the reasonable costs incurred by
claimant in conducting such sale.}
§ 9406. Disposition of fines and forfeitures.

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

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

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

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

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

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

(5) The forfeiture of property specified in section 1715-
of the act of July 28, 1988 (P.L.556, No.101), known as the-

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

Section 11. Repeals are as follows:
(a) The General Assembly finds that the repeals under-
subsections (b) and (c) are necessary to effectuate the addition-
of 42 Pa.C.S. Ch. 58.
(b) Sections 602 and 603(a) and (b) of the act of April 12,
1951 (P.L.90, No.21), known as the Liquor Code, are repealed to-
the extent of any inconsistency with this act.
(c) The following acts and parts of acts are repealed-
absolutely:
(1) Sections 2, 3, 4 and 5 of the act of July 3, 1941-
(P.L.263, No.121), entitled "An act providing for the-
forfeiture and condemnation of vehicles used to store,
possession or transport narcotics or drugs, the possession or-
transportation of which is in violation of law."
(2) Section 603(c) of the act of April 12, 1951 (P.L.90,-
No.21), known as the Liquor Code.
(3) Section 1285(f), (g), (h), (i), (j), (k), (l), (m) and (n) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

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

SECTION 1. SECTION 1518(F) OF TITLE 4 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 1518. PROHIBITED ACTS; PENALTIES.

* * *

(F) PROPERTY SUBJECT TO SEIZURE, CONFISCATION, DESTRUCTION OR FORFEITURE.--ANY EQUIPMENT, DEVICE OR APPARATUS, MONEY, MATERIAL, GAMING PROCEEDS OR SUBSTITUTED PROCEEDS OR REAL OR PERSONAL PROPERTY USED, OBTAINED OR RECEIVED OR ANY ATTEMPT TO USE, OBTAIN OR RECEIVE THE DEVICE, APPARATUS, MONEY, MATERIAL, PROCEEDS OR REAL OR PERSONAL PROPERTY IN VIOLATION OF THIS PART SHALL BE SUBJECT TO [SEIZURE, CONFISCATION, DESTRUCTION OR FORFEITURE] THE PROVISIONS OF 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

SECTION 2. SECTION 910(C.1) OF TITLE 18 IS AMENDED TO READ:

§ 910. MANUFACTURE, DISTRIBUTION, USE OR POSSESSION OF DEVICES FOR THEFT OF TELECOMMUNICATIONS SERVICES.

* * *

(C.1) FORFEITURE OF UNLAWFUL TELECOMMUNICATION DEVICES.-- UPON CONVICTION OF A DEFENDANT UNDER THIS SECTION, THE COURT MAY, IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, DIRECT THAT THE DEFENDANT FORFEIT ANY UNLAWFUL TELECOMMUNICATION DEVICES IN THE DEFENDANT'S POSSESSION OR CONTROL WHICH WERE INVOLVED IN THE VIOLATION FOR WHICH THE DEFENDANT WAS CONVICTED. THE FORFEITURE SHALL BE CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

* * *
SECTION 2.1. SECTION 2717 OF TITLE 18 IS AMENDED BY ADDING A
SUBSECTION TO READ:

§ 2717. TERRORISM.

* * *

(B.1) FORFEITURE.--EACH FOREIGN OR DOMESTIC ASSET RELATED TO
TERRORISM, INCLUDING THE FOLLOWING, SHALL BE SUBJECT TO
FORFEITURE UNDER 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF
ASSETS) AND NO PROPERTY RIGHT SHALL EXIST IN THE ASSET:

(1) EACH FOREIGN OR DOMESTIC ASSET:

(I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED
IN PLANNING OR PERPETRATING AN ACT IN THIS COMMONWEALTH
WHICH VIOLATES THIS SECTION AND EACH FOREIGN OR DOMESTIC
ASSET AFFORDING A PERSON A SOURCE OF INFLUENCE OVER THE
ENTITY OR ORGANIZATION.

(II) ACQUIRED OR MAINTAINED BY A PERSON WITH THE
INTENT AND FOR THE PURPOSE OF SUPPORTING, PLANNING,
CONDUCTING OR CONCEALING AN ACT IN THIS COMMONWEALTH
WHICH VIOLATES THIS SECTION.

(III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED
TO BE USED TO COMMIT AN ACT IN THIS COMMONWEALTH WHICH
VIOLATES THIS SECTION.

(2) EACH ASSET WITHIN THIS COMMONWEALTH:

(I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED
IN PLANNING OR PERPETRATING AN ACT WHICH VIOLATES THIS
SECTION.

(II) ACQUIRED OR MAINTAINED WITH THE INTENT AND FOR
THE PURPOSE OF SUPPORTING, PLANNING, CONDUCTING OR
CONCEALING AN ACT WHICH VIOLATES THIS SECTION.

(III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED
TO BE USED TO COMMIT AN ACT WHICH VIOLATES THIS SECTION.
SECTION 2.2. SECTION 3141 OF TITLE 18 IS AMENDED TO READ:

§ 3141. GENERAL RULE.

A PERSON:

(1) CONVICTED UNDER SECTION 3121 (RELATING TO RAPE), 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT), 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), 3124.1 (RELATING TO SEXUAL ASSAULT), 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT) OR 3126 (RELATING TO INDECENT ASSAULT); OR

(2) REQUIRED TO REGISTER WITH THE PENNSYLVANIA STATE POLICE UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL OFFENDERS);

MAY BE REQUIRED TO FORFEIT PROPERTY RIGHTS IN ANY PROPERTY OR ASSETS USED TO IMPLEMENT OR FACILITATE COMMISSION OF THE CRIME OR CRIMES OF WHICH THE PERSON HAS BEEN CONVICTED. [SUCH PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, A COMPUTER OR COMPUTERS, TELEPHONE EQUIPMENT, FIREARMS, LICIT OR ILLICIT PRESCRIPTION DRUGS OR CONTROLLED SUBSTANCES, A MOTOR VEHICLE OR SUCH OTHER PROPERTY OR ASSETS AS DETERMINED BY THE COURT OF COMMON PLEAS TO HAVE FACILITATED THE PERSON'S CRIMINAL MISCONDUCT.] THE FORFEITURE SHALL BE CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

SECTION 3. SECTIONS 3142, 3143 AND 3144 OF TITLE 18 ARE REPEALED:

[§ 3142. PROCESS AND SEIZURE.

(A) SEIZURE.--PROPERTY SUBJECT TO FORFEITURE UNDER THIS SECTION MAY BE SEIZED BY LAW ENFORCEMENT AUTHORITY UPON PROCESS ISSUED BY THE COURT OF COMMON PLEAS HAVING JURISDICTION OVER THE PERSON OR PROPERTY.

(B) SEIZURE WITHOUT PROCESS.--SEIZURE WITHOUT PROCESS MAY BE
MADE IF THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A
SEARCH WARRANT AND THERE IS PROBABLE CAUSE TO BE BELIEVE THAT
THE PROPERTY WAS OR IS MATERIAL TO THE CHARGES FOR WHICH THE
ARREST OR SEARCH WARRANT WAS ISSUED. IN SEIZURES WITHOUT
PROCESS, PROCEEDINGS FOR THE ISSUANCE THEREOF SHALL BE
INSTITUTED IMMEDIATELY.

(C) RETURN OF PROPERTY.--PROPERTY BELONGING TO SOMEONE OTHER
THAN THE CONVICTED SEX OFFENDER OR REGISTRANT SHALL BE RETURNED
IF THE OFFENSE WAS COMMITTED WITHOUT THE KNOWLEDGE OR CONSENT OF
THE OWNER.
§ 3143. CUSTODY OF PROPERTY.

PROPERTY TAKEN OR DETAINED UNDER THIS SUBCHAPTER IS DEEMED TO
BE THE PROPERTY OF THE LAW ENFORCEMENT AUTHORITY HAVING CUSTODY
THEREOF AND IS SUBJECT ONLY TO THE COURT OF COMMON PLEAS HAVING
JURISDICTION OVER THE CRIMINAL OR FORFEITURE PROCEEDINGS, THE
DISTRICT ATTORNEY IN THE MATTER OR THE ATTORNEY GENERAL.
§ 3144. DISPOSAL OF PROPERTY.

PROPERTY TAKEN OR DETAINED PURSUANT TO THE PROVISIONS OF THIS
SUBCHAPTER SHALL BE SOLD IN THE MANNER OF PROPERTY FORFEITED
UNDER 42 PA.C.S. CH. 68 (RELATING TO FORFEITURES). THE NET
PROCEEDS, AS DETERMINED BY THE LAW ENFORCEMENT AUTHORITY HAVING
CUSTODY THEREOF, SHALL BE UTILIZED FOR INVESTIGATION OR
PROSECUTION OF SEXUAL OFFENSES OR DONATED TO NONPROFIT
CHARITABLE INSTITUTIONS WHICH PROVIDE COUNSELING AND OTHER
ASSISTANCE TO VICTIMS OF SEXUAL OFFENSES.]

SECTION 4. SECTIONS 4116(I), 4119(F)(2)(I), 5513(B), 5707,
6314(F), 6501(B)(5) AND (D), 7508(E) AND 7707 OF TITLE 18 ARE
AMENDED TO READ:
§ 4116. COPYING; RECORDING DEVICES.

* * *

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(I) FORFEITURE.--

(1) NO PROPERTY RIGHT SHALL EXIST IN ANY PROPERTY USED OR INTENDED FOR USE IN THE COMMISSION OF A VIOLATION OF THIS SECTION OR IN ANY PROCEEDS TRACEABLE TO A VIOLATION OF THIS SECTION, AND THE SAME SHALL BE DEEMED CONTRABAND AND FORFEITED IN ACCORDANCE WITH THE PROVISIONS [SET FORTH IN SECTION 6501(D) (RELATING TO SCATTERING RUBBISH)] OF 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

[(2) PROPERTY AND PROCEEDS FOUND IN CLOSE PROXIMITY TO ILLEGALLY RECORDED DEVICES SHALL BE REBUTTABLY PRESUMED TO BE USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THIS SECTION.]

(3) THE PROVISIONS OF THIS SUBSECTION SHALL NOT, IN ANY WAY, LIMIT THE RIGHT OF THE COMMONWEALTH TO EXERCISE ANY RIGHTS OR REMEDIES OTHERWISE PROVIDED BY LAW.

§ 4119. TRADEMARK COUNTERFEITING.

* * *

(F) SEIZURE, FORFEITURE AND DISPOSITION.--

* * *

(2) (I) ALL SEIZED PERSONAL PROPERTY AND PROPERTY CONSTITUTING OR DERIVED FROM ANY PROCEEDS REFERENCED IN PARAGRAPH (1) SHALL BE FORFEITED IN ACCORDANCE WITH [THE PROCEDURES SET FORTH IN SECTION 6501(D) (RELATING TO SCATTERING RUBBISH)] 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

* * *

§ 5513. GAMBLING DEVICES, GAMBLING, ETC.

* * *

(B) CONFISCATION OF GAMBLING DEVICES.--ANY GAMBLING DEVICE POSSESSED OR USED IN VIOLATION OF THE PROVISIONS OF SUBSECTION
(A) [OF THIS SECTION] SHALL BE SEIZED AND FORFEITED TO THE
COMMONWEALTH. [ALL PROVISIONS OF LAW RELATING TO THE SEIZURE,
SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION OF
INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES
UNDER THE PROVISIONS OF THIS SECTION.] THE FORFEITURE SHALL BE
CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO
FORFEITURE OF ASSETS).

* * *

§ 5707. SEIZURE AND FORFEITURE OF ELECTRONIC, MECHANICAL OR
OTHER DEVICES.

ANY ELECTRONIC, MECHANICAL OR OTHER DEVICE POSSESSED, USED,
SENT, DISTRIBUTED, MANUFACTURED, OR ASSEMBLED IN VIOLATION OF
THIS CHAPTER IS HEREBY DECLARED TO BE CONTRABAND AND MAY BE
SEIZED AND FORFEITED TO THE COMMONWEALTH IN ACCORDANCE WITH 42
PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

§ 6314. SENTENCING AND PENALTIES FOR TRAFFICKING DRUGS TO
MINORS.

* * *

(F) FORFEITURE.—ASSETS AGAINST WHICH A PETITION SEEKING
FORFEITURE [PETITION] HAS BEEN FILED AND IS PENDING OR AGAINST
WHICH THE COMMONWEALTH HAS INDICATED AN INTENTION TO FILE A
[FORFEITURE] PETITION SEEKING FORFEITURE SHALL NOT BE SUBJECT TO
A FINE UNDER THIS SECTION.

* * *

§ 6501. SCATTERING RUBBISH.

* * *

(B) PENALTY.—

* * *

(5) ANY VEHICLE, EQUIPMENT OR CONVEYANCE, INCLUDING ANY
PRIVATE AUTOMOBILE AND SMALL TRUCK, USED FOR THE
TRANSPORTATION OR DISPOSAL OF TRASH, GARBAGE OR DEBRIS IN THE
COMMISSION OF A SECOND OR SUBSEQUENT OFFENSE UNDER SUBSECTION
(A)(3) MAY BE DEEMED CONTRABAND AND FORFEITED IN ACCORDANCE
WITH [THE PROVISIONS SET FORTH IN THIS SECTION] 42 PA.C.S.
CH. 58 (RELATING TO FORFEITURE OF ASSETS).

* * *

[(D) FORFEITURE.--

(1) PROPERTY SUBJECT TO FORFEITURE UNDER THIS SECTION
MAY BE SEIZED BY THE LAW ENFORCEMENT AUTHORITY UPON PROCESS
ISSUED BY ANY COURT OF COMMON PLEAS HAVING JURISDICTION OVER
THE PROPERTY.

(2) PROPERTY TAKEN OR DETAINED UNDER THIS SECTION SHALL
NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO BE IN THE CUSTODY
OF THE LAW ENFORCEMENT AUTHORITY SUBJECT ONLY TO THE ORDERS
AND DECrees OF THE COURT OF COMMON PLEAS HAVING JURISDICTION
OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT ATTORNEY.
WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE LAW
ENFORCEMENT AUTHORITY SHALL PLACE THE PROPERTY UNDER SEAL AND
EITHER:

(I) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY IT;

OR

(II) REQUIRE THAT THE DISTRICT ATTORNEY TAKE CUSTODY
OF THE PROPERTY AND REMOVE IT TO AN APPROPRIATE LOCATION
FOR DISPOSITION IN ACCORDANCE WITH LAW.

(3) WHENEVER PROPERTY IS FORFEITED UNDER THIS SECTION,
THE PROPERTY SHALL BE TRANSFERRED TO THE CUSTODY OF THE
MUNICIPAL CORPORATION. THE MUNICIPAL CORPORATION SHALL SELL
ANY FORFEITED PROPERTY, BUT THE PROCEEDS FROM ANY SUCH SALE
SHALL BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS
FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE,
MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE
BALANCE OF THE PROCEEDS SHALL BE USED FOR THE ENFORCEMENT OF
THIS ACT.

(4) THE PROCEEDINGS FOR THE FORFEITURE OR CONDEMNATION
OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR IN THIS
SECTION, SHALL BE IN REM, IN WHICH THE COMMONWEALTH SHALL BE
THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A PETITION
SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE JUDICIAL
DISTRICT WHERE THE PROPERTY IS LOCATED, VERIFIED BY OATH OR
AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE
FOLLOWING:

(I) A DESCRIPTION OF THE PROPERTY SEIZED.
(II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.
(III) THE OWNER, IF KNOWN.
(IV) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.
(V) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO
FORFEITURE PURSUANT TO THIS SUBSECTION AND AN AVERMENT OF
MATERIAL FACTS UPON WHICH THE FORFEITURE ACTION IS BASED.
(VI) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE
PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND
CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS
CAUSE BE SHOWN TO THE CONTRARY.

(5) A COPY OF THE PETITION REQUIRED UNDER PARAGRAPH (4)
SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OWNER
OR UPON THE PERSON OR PERSONS IN POSSESSION AT THE TIME OF
THE SEIZURE. THE COPY SHALL HAVE ENDORSED A NOTICE, AS
FOLLOWS:

TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:
YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION,
SETTING FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF,
THE PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND
YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE THE
ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE
ENTERED AGAINST THE PROPERTY.

THE NOTICE SHALL BE SIGNED BY THE DISTRICT ATTORNEY, DEPUTY
DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY.

(6) IF THE OWNER OF THE PROPERTY IS UNKNOWN OR THERE WAS
NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR IF THE
OWNER OR SUCH PERSON OR PERSONS IN POSSESSION AT THE TIME OF
THE SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE
JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE
GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY
ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY
WHERE THE PROPERTY SHALL HAVE BEEN SEIZED, ONCE A WEEK FOR
TWO SUCCESSIVE WEEKS. NO OTHER ADVERTISEMENT OF ANY SORT
SHALL BE NECESSARY, ANY OTHER LAW TO THE CONTRARY
NOTWITHSTANDING. THE NOTICE SHALL CONTAIN A STATEMENT OF THE
SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF THE PROPERTY
AND THE PLACE AND DATE OF SEIZURE AND SHALL DIRECT ANY
CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A DATE
GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE LESS THAN 30
DAYS FROM THE DATE OF THE FIRST PUBLICATION. IF NO CLAIMS ARE
FILED WITHIN 30 DAYS OF PUBLICATION, THE PROPERTY SHALL
SUMMARILY FORFEIT TO THE COMMONWEALTH.

(7) FOR PURPOSES OF THIS SECTION, THE OWNER OR OTHER
SUCH PERSON CANNOT BE FOUND IN THE JURISDICTION OF THE COURT
IF:

(I) A COPY OF THE PETITION IS MAILED TO THE LAST
KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT
DELIVERY;
(II) PERSONAL SERVICE IS ATTEMPTED ONCE BUT CANNOT BE MADE AT THE LAST KNOWN ADDRESS; AND

(III) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN ADDRESS.

(8) THE NOTICE PROVISIONS OF THIS SECTION ARE AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA ON THE UNDERLYING CRIMINAL CHARGES. FORTY-FIVE DAYS AFTER SUCH A FAILURE TO APPEAR, IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

(9) UPON THE FILING OF A CLAIM FOR THE PROPERTY SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT ISSUE AND A TIME SHALL BE FIXED FOR THE HEARING.

(10) AT THE TIME OF THE HEARING, IF THE COMMONWEALTH PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO FORFEITURE UNDER THIS SECTION, THE BURDEN SHALL BE UPON THE CLAIMANT TO SHOW:

(I) THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE THEREON.

(II) THAT THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

(III) THAT IT WAS NOT UNLAWFULLY USED OR POSSESSED BY HIM. IN THE EVENT THAT IT SHALL APPEAR THAT THE PROPERTY WAS UNLAWFULLY USED OR POSSESSED BY A PERSON OTHER THAN THE CLAIMANT, THEN THE CLAIMANT SHALL SHOW THAT THE UNLAWFUL USE OR POSSESSION WAS WITHOUT HIS KNOWLEDGE OR CONSENT. SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES.
PRESENTED.

(11) IF A PERSON CLAIMING THE OWNERSHIP OF OR RIGHT OF POSSESSION TO OR CLAIMING TO BE THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE UPON THE PROPERTY, THE DISPOSITION OF WHICH IS PROVIDED FOR IN THIS SECTION, PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT ALLEGING OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF POSSESSION, A LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC HEARING, DUE NOTICE OF WHICH HAVING BEEN GIVEN TO THE DISTRICT ATTORNEY, THE CLAIMANT SHALL PROVE BY COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT THAT THE PROPERTY WAS LAWFULLY ACQUIRED, POSSESSED AND USED BY HIM OR, IT APPEARING THAT THE PROPERTY WAS UNLAWFULLY USED BY A PERSON OTHER THAN THE CLAIMANT, THAT THE UNLAWFUL USE WAS WITHOUT THE CLAIMANT'S KNOWLEDGE OR CONSENT, THEN THE COURT MAY ORDER THE PROPERTY RETURNED OR DELIVERED TO THE CLAIMANT. SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES PRESENTED. OTHERWISE, IT SHALL BE RETAINED FOR OFFICIAL USE OR SOLD IN ACCORDANCE WITH PARAGRAPH (4).

* * *

§ 7508. DRUG TRAFFICKING SENTENCING AND PENALTIES.

* * *

23 (E) FORFEITURE.--ASSETS AGAINST WHICH A PETITION SEEKING FORFEITURE [PETITION] HAS BEEN FILED AND IS PENDING OR AGAINST WHICH THE COMMONWEALTH HAS INDICATED AN INTENTION TO FILE A [FORFEITURE] PETITION SEEKING FORFEITURE SHALL NOT BE SUBJECT TO A FINE. NOTHING IN THIS SECTION SHALL PREVENT A FINE FROM BEING IMPOSED ON ASSETS WHICH HAVE BEEN SUBJECT TO AN UNSUCCESSFUL FORFEITURE PETITION.

* * *
§ 7707. LOSS OF PROPERTY RIGHTS TO COMMONWEALTH.

(A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT TO FORFEITURE TO THE COMMONWEALTH, AND NO PROPERTY RIGHT SHALL EXIST IN THEM:

(1) ANY TOOL, IMPLEMENT OR INSTRUMENTALITY, INCLUDING, BUT NOT LIMITED TO, A VEHICLE OR VEHICLE PART USED OR POSSESSED IN CONNECTION WITH ANY VIOLATION OF THIS CHAPTER.

(2) ALL MATERIALS, PRODUCTS AND EQUIPMENT OF ANY KIND WHICH ARE USED OR INTENDED FOR USE IN VIOLATION OF THIS CHAPTER.

(3) ALL BOOKS, RECORDS, MICROFILM, TAPES AND DATA WHICH ARE USED OR INTENDED FOR USE IN VIOLATION OF THIS CHAPTER.

(4) ALL MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR OTHER THINGS OF VALUE USED OR INTENDED TO BE USED TO FACILITATE ANY VIOLATION OF THIS CHAPTER AND ALL PROCEEDS TRACEABLE TO ANY TRANSACTIONS IN VIOLATION OF THIS CHAPTER.

(5) ALL REAL PROPERTY USED OR INTENDED TO BE USED TO FACILITATE ANY VIOLATION OF THIS CHAPTER, INCLUDING STRUCTURES OR OTHER IMPROVEMENTS THEREON AND INCLUDING ANY RIGHT, TITLE AND INTEREST IN THE WHOLE OR ANY LOT OR TRACT OF LAND AND ANY APPURTENANCES OR IMPROVEMENTS WHICH ARE USED OR INTENDED TO BE USED IN ANY MANNER OR PART TO COMMIT OR TO FACILITATE THE COMMISSION OF A VIOLATION OF THIS CHAPTER.

(B) EXCEPTIONS.--

(1) NO PROPERTY SHALL BE FORFEITED UNDER THIS SECTION, TO THE EXTENT OF THE INTEREST OF AN OWNER, BY REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE OWNER TO HAVE BEEN COMMITTED OR OMITTED WITHOUT THE KNOWLEDGE OR CONSENT OF THAT OWNER.

(2) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY SHALL
BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS PARAGRAPH.
A LIEN WHICH IS FRAUDULENT OR INTENDED TO AVOID FORFEITURE
UNDER THIS SECTION SHALL BE INVALID.

(C) PROCESS AND SEIZURE.--PROPERTY SUBJECT TO FORFEITURE
UNDER THIS CHAPTER MAY BE SEIZED BY THE LAW ENFORCEMENT
AUTHORITY UPON PROCESS ISSUED BY A COURT OF COMMON PLEAS HAVING
JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS MAY BE
MADE IF:

(1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH
WARRANT OR INSPECTION UNDER 75 PA.C.S. § 6308 (RELATING TO
INVESTIGATION BY POLICE OFFICERS) OR ANY OTHER ADMINISTRATIVE
INSPECTION;

(2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT
OF A PROPER JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A
CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS
CHAPTER;

(3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
IS DANGEROUS TO HEALTH OR SAFETY; OR

(4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THIS
CHAPTER.

(D) SEIZURE WITHOUT PROCESS.--IN THE EVENT SEIZURE WITHOUT
PROCESS OCCURS AS PROVIDED IN THIS CHAPTER, PROCEEDING FOR THE
ISSUANCE THEREOF SHALL BE INSTITUTED FORTHWITH.

(E) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER
THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO
BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY, SUBJECT ONLY
TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING
JURISDICTION OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT
ATTORNEY OR THE OFFICE OF ATTORNEY GENERAL. WHEN PROPERTY IS
SEIZED UNDER THIS CHAPTER, THE LAW ENFORCEMENT AUTHORITY SHALL PLACE THE PROPERTY UNDER SEAL AND EITHER:

(1) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY IT; OR
(2) REQUIRE THAT THE DISTRICT ATTORNEY OR THE OFFICE OF ATTORNEY GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE IT TO AN APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.

(F) USE OF PROPERTY HELD IN CUSTODY.—

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

(I) THE CUSTODY OF THE DISTRICT ATTORNEY, IF THE LAW ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR COUNTY JURISDICTION; OR
(II) THE OFFICE OF ATTORNEY GENERAL, IF THE LAW ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS STATEWIDE JURISDICTION.

(2) THE DISTRICT ATTORNEY OR THE OFFICE OF ATTORNEY GENERAL, WHERE APPROPRIATE, MAY:

(I) RETAIN THE PROPERTY FOR OFFICIAL USE.
(II) SELL ANY FORFEITED PROPERTY WHICH IS NOT REQUIRED TO BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC, BUT THE PROCEEDS FROM ANY SUCH SALE MUST BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDING FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE BALANCE OF THE PROCEEDS SHALL BE DEALT WITH IN ACCORDANCE WITH SUBSECTIONS (G) AND (H).

(G) USE OF CASH, PROPERTY OR PROCEEDS OF PROPERTY.—CASH OR PROCEEDS OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE DISTRICT ATTORNEY UNDER SUBSECTION (F) SHALL BE PLACED IN THE

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OPERATING FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS Elected. The appropriate county authority shall immediately release from the operating fund, without restriction, a like amount for the use of the district attorney in enforcing the criminal laws of this commonwealth. The entity having budgetary control shall not anticipate future forfeitures or proceeds from such forfeitures in adoption and approval of the budget for the district attorney.

(H) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT AUTHORITIES.--If both state and municipal law enforcement authorities were substantially involved in effecting the seizure, the court having jurisdiction over the forfeiture proceedings shall equitably distribute the property between the district attorney and the office of attorney general.

(I) ANNUAL AUDIT OF FORFEITED PROPERTY.--A county shall provide, through the controller, board of auditors or other appropriate auditor and the district attorney, an annual audit of all forfeited property and proceeds obtained under this section. The audit shall not be made public but shall be submitted to the office of attorney general. The county shall report all forfeited property and proceeds obtained under this section and the disposition thereof to the office of attorney general by September 30 of each year.

(J) ANNUAL REPORT; CONFIDENTIAL INFORMATION REGARDING PROPERTY.--The office of attorney general shall annually submit a report to the appropriations committee of the senate, the appropriations committee of the house of representatives, the judiciary committee of the senate and the judiciary committee of the house of representatives specifying the forfeited property or proceeds thereof obtained under this section. The report...
shall give an account of all proceeds derived from the sale of forfeited property and the use made of unsold forfeited property. the office of attorney general shall adopt procedures and guidelines governing the release of information by the district attorney to protect the confidentiality of forfeited property or proceeds used in ongoing enforcement activities.

(k) proceeds and appropriations.--the proceeds or future proceeds from forfeited property under this chapter shall be in addition to any appropriation made to the office of attorney general.

forfeiture of property shall be authorized for violation of this chapter and conducted in accordance with 42 pa.c.s. ch. 58 (relating to forfeiture of assets).

section 5. section 7708 of title 18 is repealed:

§ 7708. procedure with respect to seized property subject to liens and rights of lienholders.

(a) general procedure.--the proceedings for the forfeiture or condemnation of property, the sale of which is provided for under this chapter, shall be in rem in which the commonwealth shall be the plaintiff and the property the defendant. the pennsylvania rules of civil procedure shall apply to all forfeiture proceedings brought under this chapter. a petition shall be filed in the court of common pleas of the judicial district where the property is located, verified by oath or affirmation of an officer or citizen, containing the following:

(1) a description of the property seized.

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

(3) the owner, if known.

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

(5) an allegation that the property is subject to forfeiture under section 7707 (relating to loss of property
(6) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW UNLESS CAUSE BE SHOWN TO THE CONTRARY.

(B) NOTICE TO PROPERTY OWNERS.--A COPY OF THE PETITION REQUIRED UNDER SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OWNER OR UPON THE PERSON OR PERSONS IN POSSESSION AT THE TIME OF THE SEIZURE. THE COPY SHALL HAVE ENDORSED A NOTICE AS FOLLOWS:

TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY: YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION, STATING YOUR TITLE IN AND RIGHT TO POSSESSION OF THE PROPERTY WITHIN 30 DAYS FROM THE SERVICE OF THIS PETITION, AND YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE AN ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE ENTERED AGAINST THE PROPERTY.

THE NOTICE SHALL BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY.

(C) SUBSTITUTE NOTICE.--

(1) IF THE OWNER OF THE PROPERTY IS UNKNOWN OR THERE WAS NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR IF THE OWNER OR SUCH PERSON OR PERSONS IN POSSESSION AT THE TIME OF THE SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY WHERE THE PROPERTY WAS SEIZED ONCE A WEEK FOR TWO SUCCESSIVE
WEEKS. NO OTHER ADVERTISEMENT OF ANY SORT SHALL BE NECESSARY, ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING.

(2) THE NOTICE SHALL:

(I) CONTAIN A STATEMENT OF THE SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF THE PROPERTY AND THE PLACE AND DATE OF SEIZURE; AND

(II) DIRECT ANY CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A DATE GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE LESS THAN 30 DAYS FROM THE DATE OF THE FIRST PUBLICATION.

(3) IF NO CLAIMS ARE FILED WITHIN 30 DAYS OF PUBLICATION, THE PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

(D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF THIS SECTION, THE OWNER OR OTHER SUCH PERSON CANNOT BE FOUND IN THE JURISDICTION OF THE COURT IF:

(1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT A DELIVERY.

(2) A PERSONAL SERVICE IS ATTEMPTED ONCE BUT CANNOT BE MADE AT THE LAST KNOWN ADDRESS.

(3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN ADDRESS.

(E) NOTICE AUTOMATICALLY WAIVED.--

(1) THE NOTICE PROVISIONS OF THIS SECTION ARE AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA ON THE UNDERLYING CRIMINAL CHARGES.

(2) FORTY-FIVE DAYS AFTER SUCH A FAILURE TO APPEAR, IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.
(F) PRESERVATION OF THE PROPERTY SUBJECT FOR FORFEITURE.--

(1) UPON APPLICATION OF THE COMMONWEALTH, THE COURT MAY ENTER A RESTRAINING ORDER OR INJUNCTION, REQUIRE THE EXECUTION OF A SATISFACTORY PERFORMANCE BOND OR TAKE ANY OTHER ACTION TO PRESERVE THE AVAILABILITY OF PROPERTY DESCRIBED IN SECTION 7707 FOR FORFEITURE UNDER THIS SECTION EITHER:

(I) UPON THE FILING OF AN INFORMATION OR AN INDICTMENT CHARGING A VIOLATION OF THIS CHAPTER FOR WHICH CRIMINAL FORFEITURE MAY BE ORDERED UNDER THIS CHAPTER AND ALLEGING THAT THE PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT TO FORFEITURE; OR

(II) PRIOR TO THE FILING OF SUCH AN INDICTMENT OR INFORMATION IF, AFTER NOTICE TO PERSONS APPEARING TO HAVE AN INTEREST IN THE PROPERTY AND AN OPPORTUNITY FOR A HEARING, THE COURT DETERMINES THAT:

(A) THERE IS A SUBSTANTIAL PROBABILITY THAT THE COMMONWEALTH WILL PREVAIL ON THE ISSUE OF FORFEITURE AND THAT FAILURE TO ENTER THE ORDER WILL RESULT IN THE PROPERTY BEING DESTROYED, REMOVED FROM THE JURISDICTION OF THE COURT OR OTHERWISE MADE UNAVAILABLE FOR FORFEITURE.

(B) THE NEED TO PRESERVE THE AVAILABILITY OF THE PROPERTY THROUGH THE ENTRY OF THE REQUESTED ORDER OUTWEIGHS THE HARDSHIP ON ANY PARTY AGAINST WHOM THE ORDER IS TO BE ENTERED.

(2) AN ORDER ENTERED UNDER THIS SUBSECTION SHALL BE EFFECTIVE FOR NOT MORE THAN 90 DAYS UNLESS EXTENDED BY THE COURT FOR GOOD CAUSE SHOWN OR UNLESS AN INDICTMENT OR INFORMATION DESCRIBED IN PARAGRAPH (1)(I) HAS BEEN FILED.
TEMPORARY RESTRAINING ORDER.--

(1) A TEMPORARY RESTRAINING ORDER UNDER SUBSECTION (F) MAY BE ENTERED UPON APPLICATION OF THE COMMONWEALTH WITHOUT NOTICE OR OPPORTUNITY FOR A HEARING WHEN AN INFORMATION OR INDICTMENT HAS NOT YET BEEN FILED WITH RESPECT TO THE PROPERTY IF THE COMMONWEALTH DEMONSTRATES THAT:

(I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT TO FORFEITURE UNDER THIS CHAPTER; AND

(II) THE PROVISION OF NOTICE WILL JEOPARDIZE THE AVAILABILITY OF THE PROPERTY FOR FORFEITURE.

(2) SUCH TEMPORARY ORDER SHALL EXPIRE NOT MORE THAN TEN DAYS AFTER THE DATE ON WHICH IT IS ENTERED, UNLESS:

(I) EXTENDED FOR GOOD CAUSE SHOWN; OR

(II) THE PARTY AGAINST WHOM IT IS ENTERED CONSENTS TO AN EXTENSION FOR A LONGER PERIOD.

(3) A HEARING REQUESTED CONCERNING AN ORDER ENTERED UNDER THIS SUBSECTION SHALL BE HELD AT THE Earliest Possible Time AND PRIOR TO THE EXPIRATION OF THE TEMPORARY ORDER.

(H) HEARING REGARDING PROPERTY; RULES OF EVIDENCE.--THE COURT MAY RECEIVE AND CONSIDER AT A HEARING HELD UNDER SUBSECTION (F) OR (G) EVIDENCE AND INFORMATION THAT WOULD BE INADMISSIBLE UNDER THE RULES OF EVIDENCE.

(I) HEARING TIME SET.--UPON THE FILING OF A CLAIM FOR THE PROPERTY SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT ISSUE, AND A TIME SHALL BE FIXED FOR THE HEARING.

(J) OWNER'S BURDEN OF PROOF.--AT THE TIME OF THE HEARING, IF THE COMMONWEALTH PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO FORFEITURE UNDER SECTION 7706 (RELATING TO PRESUMPTIONS), THE
BURDEN SHALL BE UPON THE CLAIMANT TO SHOW THAT:

(1) THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE THEREON.

(2) THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

(3) IT WAS NOT UNLAWFULLY USED OR POSSESSED BY THE CLAIMANT. IN THE EVENT THAT IT SHALL APPEAR THAT THE PROPERTY WAS UNLAWFULLY USED OR POSSESSED BY A PERSON OTHER THAN THE CLAIMANT, THEN THE CLAIMANT MUST SHOW THAT THE UNLAWFUL USE OR POSSESSION WAS WITHOUT THE CLAIMANT'S KNOWLEDGE OR CONSENT. SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES PRESENTED.

(K) COURT-ORDERED RELEASE OF PROPERTY.--

(1) IF A PERSON CLAIMING THE OWNERSHIP OF OR RIGHT OF POSSESSION TO OR CLAIMING TO BE THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE UPON THE PROPERTY, THE DISPOSITION OF WHICH IS PROVIDED FOR IN THIS SECTION, PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT ALLEGING OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF POSSESSION, A LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC HEARING, DUE NOTICE OF WHICH HAVING BEEN GIVEN TO THE OFFICE OF ATTORNEY GENERAL OR THE DISTRICT ATTORNEY, THE CLAIMANT PROVES BY COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT:

(I) THAT THE PROPERTY WAS LAWFULLY ACQUIRED, POSSESSED AND USED BY HIM; OR

(II) IF IT APPEARS THAT THE PROPERTY WAS UNLAWFULLY USED BY A PERSON OTHER THAN THE CLAIMANT, THAT THE UNLAWFUL USE WAS WITHOUT THE CLAIMANT'S KNOWLEDGE OR CONSENT,

THEN THE COURT MAY ORDER THE PROPERTY RETURNED OR DELIVERED
TO THE CLAIMANT.

(2) SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE
REASONABLE UNDER THE CIRCUMSTANCES PRESENTED. OTHERWISE, THE
PROPERTY SHALL BE RETAINED FOR OFFICIAL USE OR SOLD IN
ACCORDANCE WITH SECTION 7707(F).]

SECTION 6. SECTION 927 OF TITLE 30 IS AMENDED TO READ:
§ 927. FORFEITURE OF FISH AND DEVICES.
(A) GENERAL RULE.--A PERSON CONVICTED OF AN OFFENSE UNDER
THIS TITLE SHALL FORFEIT ANY FISH SEIZED UNDER SECTION 901(6)
(RELATING TO POWERS AND DUTIES OF WATERWAYS [PATROLMEN]
CONSERVATION OFFICERS AND DEPUTIES) AND ANY DEVICE CONFISCATED
UNDER THIS TITLE. FORFEITURES SHALL BE CONDUCTED IN ACCORDANCE
WITH 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).
[(B) DISPOSITION OF CONFISCATED PROPERTY.--ANY PROPERTY
CONFISCATED BY THE COMMISSION UNDER THIS TITLE SHALL BE SOLD OR
OTHERWISE DISPOSED OF BY THE EXECUTIVE DIRECTOR. THESE
DISPOSITIONS SHALL BE RECORDED ON THE BOOKS OF THE COMMISSION.]

SECTION 7. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ:
CHAPTER 58
FORFEITURE OF ASSETS
SEC.
5801. SCOPE OF CHAPTER.
5802. CONTROLLED SUBSTANCES FORFEITURE.
5803. ASSET FORFEITURE.
5804. (RESERVED).
5805. FORFEITURE PROCEDURE.
5806. MOTION FOR RETURN OF PROPERTY.
5806.1. PROCEDURE FOLLOWING ACQUITTAL.
5806.2. REPRESENTATION.
5807. RESTRICTIONS ON USE.
5801. SCOPE OF CHAPTER.

This chapter relates to asset forfeiture.

5802. CONTROLLED SUBSTANCES FORFEITURE.

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

1. All drug paraphernalia, controlled substances or other drugs which have been manufactured, distributed, dispensed or acquired in violation of the Act of April 14, 1972 (P.L.233, No.64), known as the controlled substance, drug, device and cosmetic act.

2. All raw materials, products and equipment of any kind which are used or intended for use in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance or other drug in violation of the controlled substance, drug, device and cosmetic act.

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

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

   (I) No bona fide security interest retained or acquired under 13 Pa.C.S. (relating to commercial code) by any merchant dealing in new or used aircraft, vehicles or vessels, or retained or acquired by any licensed or regulated finance company, bank or lending institution, or by any other business regularly engaged in the
Financing or lending on the security of such aircraft, vehicles or vessels, shall be subject to forfeiture or impairment; and

(ii) in order to establish the requisite nexus at a forfeiture hearing under this section, the Commonwealth must establish a violation of the controlled substance, drug, device and cosmetic act other than a violation under section 13(a)(31) of the controlled substance, drug, device and cosmetic act.

(5) all books, records and research, including formulas, microfilm, tapes and data, which are used or intended for use in violation of the controlled substance, drug, device and cosmetic act.

(6) (i) all of the following:

(A) money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of the controlled substance, drug, device and cosmetic act, and all proceeds traceable to such an exchange.

(B) money, negotiable instruments, securities or other things of value used or intended to be used to facilitate any violation of the controlled substance, drug, device and cosmetic act.

(C) real property used or intended to be used to facilitate any violation of the controlled substance, drug, device and cosmetic act, including structures or other improvements thereon, and including any right, title and interest in the whole or any lot or tract of land and any appurtenances or improvements,
WHICH IS USED OR INTENDED TO BE USED IN ANY MANNER OR
PART TO COMMIT OR TO FACILITATE THE COMMISSION OF A
VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE
AND COSMETIC ACT, AND THINGS GROWING ON, AFFIXED TO
AND FOUND IN THE LAND. IN ORDER TO ESTABLISH THE
REQUISITE NEXUS AT A FORFEITURE HEARING UNDER THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT,
THE COMMONWEALTH MUST ESTABLISH A VIOLATION OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT
OTHER THAN A VIOLATION UNDER SECTION 13(A)(16) AND
(31) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT.

(II) THE MONEY AND NEGOTIABLE INSTRUMENTS FOUND IN
CLOSE PROXIMITY TO CONTROLLED SUBSTANCES POSSESSED IN
VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT SHALL BE REBUTTALLY PRESUMED TO BE PROCEEDS
DERIVED FROM THE SELLING OF A CONTROLLED SUBSTANCE IN
VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
COSMETIC ACT.

(III) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY
SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS
PARAGRAPH. A LIEN WHICH IS FRAUDULENT OR INTENDED TO
AVOID FORFEITURE UNDER THIS SECTION SHALL BE INVALID.

(7) ANY FIREARMS, INCLUDING, BUT NOT LIMITED TO, RIFLES,
SHOTGUNS, PISTOLS, REVOLVERS, MACHINE GUNS, ZIP GUNS OR ANY
TYPE OF PROHIBITED OFFENSIVE WEAPON, AS THAT TERM IS DEFINED
IN 18 PA.C.S. § 6105 (RELATING TO PERSONS NOT TO POSSESS,
USE, MANUFACTURE, CONTROL, SELL OR TRANSFER FIREARMS), WHICH
ARE USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. FIREARMS
AS ARE FOUND IN CLOSE PROXIMITY TO ILLEGALLY POSSESSED
CONTROLLED SUBSTANCES SHALL BE REBUTTALLY PREMISED TO BE USED
OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. ALL
WEAPONS FORFEITED UNDER THIS SECTION SHALL BE IMMEDIATELY
DESTROYED BY THE RECEIVING LAW ENFORCEMENT AGENCY.

§ 5803. ASSET FORFEITURE.
(A) APPLICABILITY.--THIS SECTION SHALL APPLY TO EACH CASE
FOR WHICH FORFEITURE IS EXPRESSLY AUTHORIZED AS A SANCTION.
(B) PROCESS AND SEIZURE OF MONEY AND PERSONAL PROPERTY.--
PROPERTY SUBJECT TO FORFEITURE MAY BE SEIZED BY A LAW
ENFORCEMENT AUTHORITY IF:
(1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH
UNDER A SEARCH WARRANT OR INSPECTION UNDER AN ADMINISTRATIVE
INSPECTION WARRANT AND THERE IS REASON TO BELIEVE THE
PROPERTY IS SUBJECT TO FORFEITURE.
(2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT
OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A
CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS
CHAPTER.
(3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
IS DANGEROUS TO HEALTH AND SAFETY AND EXIGENCIES ARE LIKELY
TO RESULT IN THE DESTRUCTION OR REMOVAL OF THE PROPERTY OR IN
THE PROPERTY OTHERWISE BEING MADE UNAVAILABLE FOR FORFEITURE.
(4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY
HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE
ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
ANOTHER OFFENSE FOR WHICH FORFEITURE IS EXPRESSLY AUTHORIZED
AS A SANCTION.
(5) There is a warrant issued by a court of common pleas with appropriate jurisdiction.

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

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

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

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

(I) The district attorney or the attorney general notifies the court that it intends to seize the property before a trial; and

(II) The court:

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

(B) Makes an ex parte determination that there
IS PROBABLE CAUSE TO BELIEVE THAT A NEXUS EXISTS BETWEEN THE PROPERTY AND THE CRIMINAL ACTIVITY FOR WHICH FORFEITURE IS AUTHORIZED AND THAT EXIGENT CIRCUMSTANCES ARE PRESENTED THAT PERMIT THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL TO SEIZE THE PROPERTY WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR THE PROPERTY OWNER TO BE HEARD.

(3) FOR PURPOSES OF PARAGRAPH (2)(II)(B), EXIGENT CIRCUMSTANCES ARE PRESENTED WHERE THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL DEMONSTRATES THAT LESS RESTRICTIVE MEASURES, SUCH AS A LIS PENDENS, TEMPORARY RESTRAINING ORDER OR SECURITY BOND, WOULD NOT SUFFICE TO PROTECT THE COMMONWEALTH'S INTEREST IN PREVENTING THE SALE, DESTRUCTION OR CONTINUED UNLAWFUL USE OF THE REAL PROPERTY.

(4) IF THE COURT AUTHORIZES A SEIZURE OF REAL PROPERTY UNDER PARAGRAPH (2)(II)(B), IT SHALL CONDUCT A PROMPT POSTSEIZURE HEARING AT WHICH THE CLAIMANT SHALL HAVE AN OPPORTUNITY TO CONTEST THE COMMONWEALTH'S CONTINUING CUSTODY OF THE PROPERTY.

(C) ISSUANCE OF PROCESS.--IF SEIZURE WITHOUT PROCESS OCCURS UNDER SUBSECTION (B) OR (B.1), PROCEEDINGS FOR THE ISSUANCE OF PROCESS SHALL BE INSTITUTED AS SOON AS FEASIBLE.

(D) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN AND IS DEEMED TO BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY SUBJECT ONLY TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING JURISDICTION OVER THE FORFEITURE PROCEEDINGS OF THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL. WHEN PROPERTY IS SEIZED UNDER THIS CHAPTER, THE LAW ENFORCEMENT AUTHORITY SHALL PLACE THE PROPERTY IN A SECURE AREA OR FACILITY AND EITHER:
(1) REMOVE THE PROPERTY TO A SECURE AREA OR FACILITY DESIGNEATED BY THE LAW ENFORCEMENT AUTHORITY; OR

(2) REQUIRE THAT THE DISTRICT ATTORNEY OR ATTORNEY GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE THE PROPERTY TO AN APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.

(E) RECEIPT.--WHEN PROPERTY IS SEIZED, THE LAW ENFORCEMENT AUTHORITY SHALL PROVIDE A RECEIPT TO THE PERSON IN POSSESSION OF THE PROPERTY OR, IN THE ABSENCE OF A PERSON, LEAVE A RECEIPT IN THE PLACE WHERE THE PROPERTY WAS FOUND, IF REASONABLY POSSIBLE. THE RECEIPT SHALL PROVIDE NOTICE OF THE RIGHT OF INTEREST HOLDERS TO SEEK THE RETURN OF THE SEIZED PROPERTY UNDER THIS CHAPTER. THIS SECTION SHALL NOT APPLY IF LAW ENFORCEMENT IS OTHERWISE REQUIRED TO PROVIDE A RECEIPT FOR THE PROPERTY.

(F) USE OF PROPERTY HELD IN CUSTODY.--IF PROPERTY IS FORFEITED UNDER THIS CHAPTER, THE PROPERTY SHALL BE TRANSFERRED TO THE CUSTODY OF THE DISTRICT ATTORNEY, IF THE LAW ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR COUNTY JURISDICTION, OR THE ATTORNEY GENERAL, IF THE LAW ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS STATEWIDE JURISDICTION. THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL, WHERE APPROPRIATE, MAY:

(1) RETAIN THE PROPERTY FOR OFFICIAL USE; OR

(2) SELL ANY FORFEITED PROPERTY WHICH IS NOT REQUIRED TO BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC, EXCEPT THAT THE PROCEEDS FROM THE SALE SHALL BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE BALANCE OF THE PROCEEDS SHALL BE USED AND DISTRIBUTED IN ACCORDANCE WITH SUBSECTIONS (G) AND (H).
(F.1) PROHIBITED SALES.--SALE OF FORFEITED PROPERTY TO AN
EMPLOYEE OF THE DISTRICT ATTORNEY OR ATTORNEY GENERAL, AN
INDIVIDUAL RELATED TO AN EMPLOYEE BY BLOOD OR MARRIAGE OR AN
EMPLOYEE OF ANOTHER LAW ENFORCEMENT AUTHORITY IS PROHIBITED.

(G) USE OF CASH OR PROCEEDS OF PROPERTY.--EXCEPT AS PROVIDED
UNDER SECTION 5807 (RELATING TO RESTRICTIONS ON USE), CASH OR
PROCEEDS OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE
DISTRICT ATTORNEY UNDER SUBSECTION (F) SHALL BE PLACED IN THE
OPERATING FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS
ELECTED. THE APPROPRIATE COUNTY AUTHORITY SHALL IMMEDIATELY
RELEASE FROM THE OPERATING FUND, WITHOUT RESTRICTION, A LIKE
AMOUNT FOR THE USE OF THE DISTRICT ATTORNEY FOR THE ENFORCEMENT
OF OR PREVENTION OF A VIOLATION OF THE PROVISIONS OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. THE FUNDS
SHALL BE MAINTAINED IN AN ACCOUNT SEPARATE FROM OTHER REVENUES
OF THE OFFICE. THE ENTITY HAVING BUDGETARY CONTROL SHALL NOT
ANTICIPATE FUTURE FORFEITURES OR PROCEEDS FROM FUTURE
FORFEITURES IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE
DISTRICT ATTORNEY.

(H) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT
AUTHORITIES.--IF BOTH STATE AND MUNICIPAL LAW ENFORCEMENT
AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE
SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE
PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN THE
DISTRICT ATTORNEY AND THE ATTORNEY GENERAL.

(I) AUTHORIZATION TO UTILIZE PROPERTY.--EXCEPT AS PROVIDED
UNDER SECTION 5807, THE DISTRICT ATTORNEY AND THE ATTORNEY
GENERAL SHALL UTILIZE FORFEITED PROPERTY OR PROCEEDS FROM
FORFEITED PROPERTY FOR THE ENFORCEMENT OF OR PREVENTION OF A
VIOLATION OF THE PROVISIONS OF THE CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT. IN APPROPRIATE CASES, THE DISTRICT
ATTORNEY AND THE ATTORNEY GENERAL MAY DESIGNATE PROCEEDS FROM
FORFEITED PROPERTY TO BE UTILIZED BY COMMUNITY-BASED DRUG AND
CRIME-FIGHTING PROGRAMS AND FOR RELOCATION AND PROTECTION OF
WITNESSES IN CRIMINAL CASES. FORFEITED REAL PROPERTY MAY BE
TRANSFERRED TO A NONPROFIT ORGANIZATION TO ALLEVIATE BLIGHT
RESULTING FROM VIOLATIONS OF THE CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT.

(J) ANNUAL AUDIT OF FORFEITED PROPERTY.--EVERY COUNTY IN
THIS COMMONWEALTH SHALL PROVIDE, THROUGH THE CONTROLLER, BOARD
OF AUDITORS OR OTHER APPROPRIATE AUDITOR AND THE DISTRICT
ATTORNEY, AN ANNUAL AUDIT OF ALL FORFEITED PROPERTY AND PROCEEDS
OBTAINED UNDER THIS SECTION. THE AUDIT SHALL NOT BE MADE PUBLIC
BUT SHALL BE SUBMITTED TO THE OFFICE OF ATTORNEY GENERAL. BY
SEPTEMBER 30 OF EACH YEAR, THE COUNTY SHALL REPORT ALL FORFEITED
PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION AND THE
DISPOSITION OF THE PROPERTY DURING THE PRECEDING YEAR TO THE
ATTORNEY GENERAL. THE ATTORNEY GENERAL AND EACH DISTRICT
ATTORNEY SHALL MAINTAIN AND CREATE APPROPRIATE RECORDS TO
ACCOUNT FOR THE PROPERTY FORFEITED IN A FISCAL YEAR AND THE USE
MADE OF THE PROPERTY FORFEITED. EACH AUDIT SHALL INCLUDE:

(1) THE TYPE OF PROPERTY FORFEITED.

(2) THE APPROXIMATE VALUE.

(3) THE ALLEGED CRIMINAL BEHAVIOR WITH WHICH THE
PROPERTY IS ALLEGEDLY ASSOCIATED.

(4) THE DISPOSITION OR USE OF PROPERTY RECEIVED.

(5) WHETHER THE FORFEITURE WAS RELATED TO A CRIMINAL
CASE.

(K) ANNUAL REPORT AND CONFIDENTIAL INFORMATION.--THE
ATTORNEY GENERAL SHALL ANNALLY SUBMIT A REPORT TO THE
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APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF THE SENATE
AND TO THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF
THE HOUSE OF REPRESENTATIVES SPECIFYING THE FORFEITED PROPERTY
OR PROCEEDS OF FORFEITED PROPERTY OBTAINED UNDER THIS SECTION
DURING THE FISCAL YEAR BEGINNING JULY 1. THE REPORT SHALL GIVE
AN ACCOUNTING OF ALL PROCEEDS DERIVED FROM THE SALE OF FORFEITED
PROPERTY AND THE USE MADE OF UNSOLD FORFEITED PROPERTY. THE
ATTORNEY GENERAL SHALL ADOPT PROCEDURES AND GUIDELINES GOVERNING
THE RELEASE OF INFORMATION BY THE DISTRICT ATTORNEY TO PROTECT
THE CONFIDENTIALITY OF FORFEITED PROPERTY OR PROCEEDS USED IN
ONGOING DRUG ENFORCEMENT ACTIVITIES, WHICH SHALL BE PUBLIC
INFORMATION.

(K.1) REPORTING.--BY NOVEMBER 30 OF EACH YEAR, THE OFFICE OF
ATTORNEY GENERAL SHALL NOTIFY THE APPROPRIATIONS COMMITTEE AND
JUDICIARY COMMITTEE OF THE SENATE AND THE APPROPRIATIONS
COMMITTEE AND JUDICIARY COMMITTEE OF THE HOUSE OF
REPRESENTATIVES OF ANY COUNTY WHICH HAS NOT SUBMITTED AN AUDIT
AND COMPLIED WITH THE REQUIREMENTS IN SUBSECTION (K).

(L) PROCEEDS AND APPROPRIATIONS.--THE PROCEEDS OR FUTURE
PROCEEDS FROM FORFEITED PROPERTY UNDER THIS CHAPTER SHALL BE IN
ADDITION TO ANY APPROPRIATION MADE TO THE OFFICE OF ATTORNEY
GENERAL. THE ATTORNEY GENERAL SHALL MAINTAIN PROCEEDS FROM
PROPERTY FORFEITED TO THE OFFICE OF ATTORNEY GENERAL IN AN
ACCOUNT SEPARATE FROM ANY OTHER ACCOUNT MAINTAINED BY THE OFFICE
OF ATTORNEY GENERAL.

§ 5804. (RESERVED).
§ 5805. FORFEITURE PROCEDURE.

(A) GENERAL PROCEDURE.--THE PROCEEDINGS FOR THE FORFEITURE
OR CONDEMNATION OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR
IN THIS CHAPTER, SHALL BE IN REM, IN WHICH THE COMMONWEALTH
SHALL BE THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A
FORFEITURE PETITION SIGNED BY THE ATTORNEY GENERAL, DEPUTY
ATTORNEY GENERAL, DISTRICT ATTORNEY OR ASSISTANT DISTRICT
ATTORNEY SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE
JUDICIAL DISTRICT WHERE THE PROPERTY IS SEIZED OR LOCATED,
VERIFIED BY OATH OR AFFIRMATION OF AN OFFICER. IF CRIMINAL
CHARGES HAVE BEEN FILED AND A PROSECUTION IS PENDING, THE
PETITION SHALL BE FILED IN THE SAME JUDICIAL DISTRICT AS THE
CRIMINAL CHARGES IN ALL Instances EXCEPT THOSE INVOLVING REAL
PROPERTY. EACH PETITION RELATING TO REAL PROPERTY SHALL BE FILED
IN THE JURISDICTION WHERE THE REAL PROPERTY IS LOCATED.

(1) EACH FORFEITURE PETITION SHALL CONTAIN THE
FOLLOWING:

(I) A DESCRIPTION OF THE PROPERTY ACTUALLY SEIZED OR
CONSTRUCTIVELY SEIZED, INCLUDING, BUT NOT LIMITED TO, IF
KNOWN, THE ADDRESS OF ANY REAL PROPERTY, THE EXACT DOLLAR
AMOUNT OF ANY MONEY, NEGOTIABLE INSTRUMENT OR SECURITIES
AND THE MAKE, MODEL, YEAR AND LICENSE PLATE NUMBER OF ANY
VEHICLE.

(II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.

(III) THE OWNER, IF KNOWN.

(IV) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.

(V) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO
FORFEITURE AND AN AVERMENT OF MATERIAL FACTS ON WHICH THE
FORFEITURE ACTION IS BASED.

(VI) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE
PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND
CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS
CAUSE IS SHOWN TO THE CONTRARY.

(2) THE FOLLOWING SHALL APPLY:
(I) A CLAIMANT SHALL FILE AN ANSWER SETTING FORTH A RIGHT OF POSSESSION OF THE PROPERTY WITHIN 30 DAYS OF SERVICE OF THE FORFEITURE PETITION. THE ANSWER SHALL BE IN WRITING AND FILED TO THE DOCKET NUMBER IN THE COURT OF COMMON PLEAS AND SHALL BE SIGNED BY THE CLAIMANT OR THE CLAIMANT'S ATTORNEY.

(II) THE FOLLOWING SHALL APPLY:

(A) PRIOR TO FILING AN ANSWER TO A FORFEITURE PETITION, A CLAIMANT MAY FILE A MOTION TO STAY THE FORFEITURE PROCEEDINGS IF THE CLAIMANT HAS BEEN CRIMINALLY CHARGED IN A CASE ASSOCIATED WITH THE FORFEITURE MATTER. IF THE MOTION IS PROPERLY FILED, IT SHALL BE GRANTED.

(B) THE CLAIMANT SHALL HAVE 30 DAYS FROM THE DATE THE STAY IS LIFTED TO FILE AN ANSWER IN ACCORDANCE WITH THIS PARAGRAPH.

(3) AFTER THE ANSWER IS FILED, THE PARTIES SHALL BE PERMITTED TO CONDUCT DISCOVERY.

(B) NOTICE TO PROPERTY OWNERS.--

(1) A COPY OF THE FORFEITURE PETITION REQUIRED UNDER SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OWNER, IF KNOWN, AND ON EACH PERSON IN POSSESSION AT THE TIME OF THE SEIZURE, IF KNOWN. THE COPY SHALL HAVE ENDORSED A NOTICE, AS FOLLOWS:

TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:

YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION, SETTING FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF, SAID PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE THE ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE
ENTERED AGAINST THE PROPERTY.

(2) THE NOTICE UNDER PARAGRAPH (1) MUST BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY AND CONTAIN ACCURATE CONTACT INFORMATION FOR THE SIGNATORY.

(C) SUBSTITUTE NOTICE.--

(1) IF THE OWNER OF THE PROPERTY IS UNKNOWN, THERE WAS NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR THE OWNER OR EACH PERSON IN POSSESSION AT THE TIME OF THE SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY WHERE THE PROPERTY HAS BEEN SEIZED, ONCE A WEEK FOR TWO SUCCESSIVE WEEKS.

(2) NOTWITHSTANDING ANY OTHER LAW, NO OTHER ADVERTISEMENT SHALL BE NECESSARY.

(3) THE NOTICE SHALL CONTAIN A STATEMENT OF THE SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF THE PROPERTY AND THE PLACE AND DATE OF SEIZURE AND SHALL DIRECT ANY CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A DATE GIVEN IN THE NOTICE, WHICH SHALL NOT BE LESS THAN 30 DAYS FROM THE DATE OF THE FIRST PUBLICATION.

(4) IF NO CLAIMS ARE FILED WITHIN 30 DAYS OF PUBLICATION, THE COMMONWEALTH MAY MOVE FOR DEFAULT JUDGMENT.

(D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF THIS SECTION, THE OWNER OR OTHER PERSON CANNOT BE FOUND IN THE JURISDICTION OF THE COURT IF:

(1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT DELIVERY;
(2) PERSONAL SERVICE IS ATTEMPTED ONCE, BUT CANNOT BE
MADE AT THE LAST KNOWN ADDRESS; AND

(3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN
ADDRESS UNLESS THE ADDRESS DOES NOT EXIST.

(D.1) PROOF OF NOTICE.--THE COMMONWEALTH SHALL FILE PROOF OF
NOTICE WITH THE COURT. A FORFEITURE ORDER SHALL NOT BE FINAL
UNTIL THE COURT FINDS THAT PROOF EXISTS THAT SATISFIES THE
NOTICE REQUIREMENTS CONTAINED UNDER SUBSECTIONS (B), (C) AND
(D).

(E) NOTICE AUTOMATICALLY WAIVED.--THE NOTICE PROVISIONS OF
THIS SECTION SHALL BE AUTOMATICALLY WAIVED IF THE OWNER, WITHOUT
GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA
AND A BENCH WARRANT IS ISSUED ON THE UNDERLYING CRIMINAL
CHARGES. IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE
COMMONWEALTH MAY MOVE FOR DEFAULT JUDGMENT.

(F) RELEASE OF SEIZED PROPERTY.--

(1) A CLAIMANT TO PROPERTY SUBJECT TO FORFEITURE IS
ENTITLED TO SEEK THE IMMEDIATE RELEASE OF SEIZED PROPERTY IF:

(I) THE CLAIMANT HAS A POSSESSORY INTEREST IN THE
PROPERTY;

(II) THE CLAIMANT HAS SUFFICIENT TIES TO THE
COMMUNITY TO PROVIDE ASSURANCE THAT THE PROPERTY WILL BE
AVAILABLE AT THE TIME OF THE TRIAL;

(III) THE CONTINUED POSSESSION BY THE COMMONWEALTH
PENDING THE FINAL DISPOSITION OF FORFEITURE PROCEEDINGS
WILL CAUSE SUBSTANTIAL HARDSHIP TO THE CLAIMANT, SUCH AS
PREVENTING THE FUNCTIONING OF A LEGITIMATE BUSINESS,
PREVENTING THE CLAIMANT FROM WORKING OR LEAVING THE
CLAIMANT HOMELESS;

(IV) THE CLAIMANT'S LIKELY HARDSHIP FROM THE
CONTINUED POSSESSION BY THE COMMONWEALTH OF THE SEIZED
PROPERTY OUTWEIGHS THE RISK THAT THE PROPERTY WILL BE
DESTROYED, DAMAGED, LOST, CONCEALED OR TRANSFERRED IF THE
PROPERTY IS RETURNED TO THE CLAIMANT DURING THE PENDENCY
OF THE FORFEITURE PROCEEDING; AND

(V) NONE OF THE CONDITIONS UNDER PARAGRAPH (6)
APPLY.

(2) THE FOLLOWING SHALL APPLY:

(I) THE CLAIMANT UNDER PARAGRAPH (1) MAY FILE A
MOTION IN THE COURT OF COMMON PLEAS IN WHICH THE
FORFEITURE PETITION HAS BEEN FILED OR, IF NO FORFEITURE
PETITION HAS BEEN FILED, IN THE COURT OF COMMON PLEAS IN
THE JURISDICTION IN WHICH THE PROPERTY WAS SEIZED. THE
MOTION SHALL BE SERVED UPON THE DISTRICT ATTORNEY OR
ATTORNEY GENERAL WHO SEIZED THE PROPERTY.

(II) THE MOTION DESCRIBED IN THIS SUBSECTION SHALL
SET FORTH THE BASIS ON WHICH THE REQUIREMENTS OF
PARAGRAPH (1) HAVE BEEN MET.

(3) IF THE COMMONWEALTH ESTABLISHES THAT THE CLAIMANT'S
MOTION IS MERITLESS, THE COURT SHALL DENY THE MOTION. IN
RESPONSE TO A MOTION UNDER THIS SUBSECTION ON OTHER GROUNDS,
THE COMMONWEALTH MAY, IN APPROPRIATE CASES, SUBMIT EVIDENCE
EX PARTE IN ORDER TO AVOID DISCLOSING ANY MATTER THAT MAY
ADVERSELY AFFECT AN ONGOING CRIMINAL INVESTIGATION OR PENDING
CRIMINAL TRIAL.

(4) THE FOLLOWING SHALL APPLY:

(I) THE COURT SHALL ORDER THAT THE PROPERTY BE
RETURNED TO THE CLAIMANT PENDING COMPLETION OF THE
FORFEITURE PROCEEDING IF:

(A) A MOTION IS FILED UNDER PARAGRAPH (2); AND
(B) FOLLOWING A HEARING, THE CLAIMANT HAS
DEMONSTRATED THAT THE REQUIREMENTS OF PARAGRAPH (1)
HAVE BEEN MET.

(II) IF THE MOTION ADDRESSES CURRENCY, MONETARY
INSTRUMENTS OR ELECTRONIC FUNDS, THE CLAIMANT MUST
ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE A DOCUMENTED
AND NONCRIMINAL SOURCE OF THE CURRENCY, MONETARY
INSTRUMENT OR ELECTRONIC FUND. THE REQUIREMENT UNDER THIS
SUBPARAGRAPH SHALL BE IN ADDITION TO THE REQUIREMENTS
UNDER SUBPARAGRAPH (I).

(5) IF THE COURT GRANTS A MOTION UNDER PARAGRAPH (4):

(I) THE COURT SHALL ENTER ANY ORDER NECESSARY TO
ENSURE THAT THE VALUE OF THE PROPERTY IS MAINTAINED WHILE
THE FORFEITURE ACTION IS PENDING, INCLUDING:

(A) PERMITTING THE INSPECTION, PHOTOGRAPHING AND
THE TAKING OF INVENTORY OF THE PROPERTY;

(B) FIXING A BOND AS PROVIDED UNDER PARAGRAPH
(5.1); AND

(C) REQUIRING THE CLAIMANT TO OBTAIN OR MAINTAIN
INSURANCE ON THE SUBJECT PROPERTY;

(II) THE COMMONWEALTH MAY PLACE A LIEN AGAINST THE
PROPERTY OR FILE A LIS PENDENS TO ENSURE THAT THE
PROPERTY IS NOT TRANSFERRED TO ANOTHER PERSON; AND

(III) IF THE PROPERTY IN QUESTION IS CURRENCY,
MONETARY INSTRUMENTS OR ELECTRONIC FUNDS, THE COURT SHALL
FIX A BOND AS PROVIDED UNDER PARAGRAPH (5.1).

(5.1) FOR THE PURPOSES OF PARAGRAPH (5)(I)(B) AND (III),
THE FOLLOWING SHALL APPLY TO THE FIXING OF A BOND SUFFICIENT
TO SECURE THE VALUE OF THE PROPERTY:

(I) IF THE VALUE OF THE PROPERTY IS LESS THAN
$2,000, THE COURT MAY ORDER THE FIXING OF A BOND.


(III) IF THE VALUE OF THE PROPERTY IS $5,000 OR MORE, THE COURT SHALL ORDER THE FIXING OF A BOND.

(6) THIS SUBSECTION SHALL NOT APPLY IF THE SEIZED PROPERTY:

(I) IS CONTRABAND;

(II) IS EVIDENCE WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, PROCEEDS FROM A VIOLATION OF LAW;

(III) BY REASON OF DESIGN OR OTHER CHARACTERISTIC, IS PARTICULARLY SUITED FOR USE IN ILLEGAL ACTIVITIES; OR

(IV) IS LIKELY TO BE USED TO COMMIT ADDITIONAL CRIMINAL ACTS IF RETURNED TO THE CLAIMANT.

(I) TRIAL TIME.--ON THE FILING OF AN ANSWER SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT ISSUE AND A TIME SHALL BE FIXED FOR THE TRIAL. A JUDICIAL DISTRICT SHALL NOT REQUIRE THE PARTIES TO PROCESS THROUGH LOCAL RULES OF ARBITRATION.

(J) BURDEN OF PROOF.--

(1) THE BURDEN SHALL BE ON THE COMMONWEALTH TO ESTABLISH IN THE FORFEITURE PETITION THAT THE PROPERTY IS SUBJECT TO FORFEITURE.

(2) IF THE COMMONWEALTH SATISFIES THE BURDEN UNDER PARAGRAPH (1), THE BURDEN SHALL BE ON THE CLAIMANT TO SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT:
(I) THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE
HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL
SALE ON THE PROPERTY; AND

(II) THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

(3) IF THE CLAIMANT SATISFIES THE BURDEN UNDER PARAGRAPH
(2), THE BURDEN SHALL BE ON THE COMMONWEALTH TO ESTABLISH BY
CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY IN QUESTION
WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO THE
FORFEITURE.

(4) IF THE COMMONWEALTH SATISFIES THE BURDEN UNDER
PARAGRAPH (3) AND THE CLAIMANT ALLEGES THAT HE DID NOT HAVE
KNOWLEDGE OF THE UNLAWFUL ACTIVITY OR CONSENT TO THE UNLAWFUL
ACTIVITY, THE BURDEN SHALL BE ON THE COMMONWEALTH TO
ESTABLISH BY CLEAR AND CONVINCING EVIDENCE:

(I) THAT THE PROPERTY WAS UNLAWFULLY USED OR
POSSESSED BY THE CLAIMANT; OR

(II) IF IT APPEARS THAT THE PROPERTY WAS UNLAWFULLY
USED OR POSSESSED BY A PERSON OTHER THAN THE CLAIMANT,
THAT THE PERSON UNLAWFULLY USED OR POSSESSED THE PROPERTY
WITH THE CLAIMANT'S KNOWLEDGE AND CONSENT.

(K) PROPORTIONALITY.--

(1) IF THE COURT DETERMINES THAT THE FORFEITURE PETITION
SHALL BE GRANTED, THE CLAIMANT, PRIOR TO ENTRY OF AN ORDER OF
FORFEITURE, MAY PETITION THE COURT TO DETERMINE WHETHER THE
FORFEITURE IS CONSTITUTIONALLY EXCESSIVE.

(2) IF THE COURT FINDS THAT THE FORFEITURE IS GROSSLY
DISPROPORTIONAL TO THE OFFENSE, THE COURT SHALL REDUCE OR
ELIMINATE THE FORFEITURE AS NECESSARY TO AVOID A
CONSTITUTIONAL VIOLATION.

§ 5806. MOTION FOR RETURN OF PROPERTY.
(A) MOTION.--THE FOLLOWING SHALL APPLY:

(1) A PERSON AGGRIEVED BY A SEARCH AND SEIZURE MAY MOVE FOR THE RETURN OF THE PROPERTY SEIZED BY FILING A MOTION IN THE COURT OF COMMON PLEAS IN THE JUDICIAL DISTRICT WHERE THE PROPERTY IS LOCATED.

(2) THE FILER UNDER PARAGRAPH (1) MUST SERVE THE COMMONWEALTH.


(4) THE ASSIGNED JUDGE MAY REQUIRE THE FILING OF AN ANSWER.

(5) IF A FORFEITURE PETITION WAS FILED BY THE COMMONWEALTH BEFORE THE FILING OF A MOTION FOR RETURN OF PROPERTY, THE MOTION SHALL BE ASSIGNED TO THE SAME JUDGE FOR DISPOSITION, AS PRACTICABLE.

(B) CONTENTS OF MOTION.--A MOTION UNDER THIS SECTION SHALL:

(1) BE SIGNED BY THE PETITIONER UNDER PENALTY OF PERJURY.

(2) DESCRIBE THE NATURE AND EXTENT OF THE PETITIONER'S RIGHT, TITLE OR INTEREST IN THE PROPERTY, THE TIME AND CIRCUMSTANCES OF THE PETITIONER'S ACQUISITION OF THE RIGHT, TITLE OR INTEREST IN THE PROPERTY AND ANY ADDITIONAL FACTS SUPPORTING THE PETITIONER'S CLAIM. THE INFORMATION SHALL INCLUDE:

(I) A DESCRIPTION OF THE PROPERTY SEIZED.

(II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED, IF KNOWN.
(III) THE OWNER, IF KNOWN.

(IV) THE PERSON IN POSSESSION, IF KNOWN.

(3) IDENTIFY THE RELIEF SOUGHT, WHICH MAY INCLUDE:

(I) RETURN OF THE PETITIONER'S PROPERTY;

(II) REIMBURSEMENT FOR THE PETITIONER'S LEGAL
INTEREST IN THE PROPERTY;

(III) SEVERANCE OF THE PETITIONER'S PROPERTY FROM
THE FORFEITED PROPERTY;

(IV) ANY RELIEF THE COURT DEEMS APPROPRIATE AND
JUST; OR

(V) ANY RELIEF THE COURT DEEMS APPROPRIATE.

§ 5806.1. PROCEDURE FOLLOWING ACQUITTAL.

(A) PRESUMPTION AGAINST FORFEITURE.--IF THE OWNER OF THE
PROPERTY IS ACQUITTED OF ALL CRIMES WHICH AUTHORIZE FORFEITURE,
THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE PROPERTY WAS
LAWFULLY USED OR POSSESSED BY THE CLAIMANT.

(B) AUTOMATIC MOTION.--IF THE OWNER OF THE PROPERTY IS
ACQUITTED OF ALL CRIMES WHICH AUTHORIZE FORFEITURE, THE OWNER
SHALL BE ENTITLED TO A HEARING UNDER SECTION 5806 (RELATING TO
MOTION FOR RETURN OF PROPERTY).

(C) APPLICABILITY.--IF THE FORFEITURE PETITION RELATING TO
THE PROPERTY AT ISSUE HAS ALREADY BEEN LITIGATED, THIS SECTION
SHALL NOT APPLY.

(D) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM
"ACQUITTAL" SHALL NOT INCLUDE ACCEPTANCE OF ACCELERATED
REHABILITATIVE DISPOSITION OR ANY OTHER FORM OF PRELIMINARY
DISPOSITION, INCLUDING PLEA AGREEMENTS.

§ 5806.2. REPRESENTATION.

NOTWITHSTANDING THE ACT OF DECEMBER 2, 1968 (P.L.1144,
NO.358), KNOWN AS THE PUBLIC DEFENDER ACT, THE FOLLOWING SHALL
APPLY:

(1) IF A PERSON WITH STANDING TO CONTEST THE FORFEITURE OF PROPERTY IN A CIVIL FORFEITURE PROCEEDING UNDER THIS CHAPTER IS FINANCIALLY UNABLE TO OBTAIN REPRESENTATION BY AN ATTORNEY AND THE PROPERTY SUBJECT TO FORFEITURE IS REAL PROPERTY, THE COURT, AT THE REQUEST OF THE PERSON, SHALL ENSURE THAT THE PERSON IS REPRESENTED BY AN ATTORNEY WITH RESPECT TO THE CLAIM.

(2) IF A PERSON WHO HAS NOT BEEN CHARGED IN A RELATED CRIMINAL CASE AND WHO HAS STANDING TO CONTEST THE FORFEITURE OF PROPERTY IN A CIVIL FORFEITURE PROCEEDING UNDER THIS CHAPTER IS FINANCIALLY UNABLE TO OBTAIN REPRESENTATION BY AN ATTORNEY, THE COURT MAY AUTHORIZE AN ATTORNEY TO REPRESENT THAT PERSON WITH RESPECT TO THE CLAIM.

(3) IN DETERMINING WHETHER TO AUTHORIZE AN ATTORNEY TO REPRESENT A PERSON UNDER THIS SECTION, THE COURT SHALL TAKE INTO ACCOUNT THE FOLLOWING FACTORS:

(I) THE PERSON'S STANDING TO CONTEST THE FORFEITURE;

AND

(II) WHETHER THE CLAIM APPEARS TO BE MADE IN GOOD FAITH.

§ 5807. RESTRICTIONS ON USE.

THE AUDIT REQUIRED UNDER SECTION 5803(J) (RELATING TO ASSET FORFEITURE) SHALL INCLUDE A COPY OF EACH EQUITABLE SHARING AGREEMENT AND CERTIFICATION FORM FILED WITH THE UNITED STATES DEPARTMENT OF JUSTICE WITHIN THE LAST 12 MONTHS. PROPERTY, MONEY OR OTHER THINGS OF VALUE RECEIVED BY A STATE LAW ENFORCEMENT AUTHORITY UNDER ANY OF THE FOLLOWING MAY NOT BE USED FOR CONTRIBUTIONS TO POLITICAL CAMPAIGNS, EXPENSES RELATED TO JUDICIAL TRAININGS OR THE PURCHASE OF ALCOHOLIC BEVERAGES:

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(1) A FEDERAL LAW WHICH AUTHORIZES THE SHARING OR
TRANSFER OF ALL OR A PORTION OF FORFEITED PROPERTY OR THE
PROCEEDS OF THE SALE OF FORFEITED PROPERTY TO A STATE LAW
ENFORCEMENT AUTHORITY.

(2) EXCEPT FOR SECTION 5802 (RELATING TO CONTROLLED
SUBSTANCES FORFEITURE), A FORFEITURE AUTHORIZED UNDER 18
PA.C.S. (RELATING TO CRIMES AND OFFENSES) OR 4 PA.C.S.
(RELATING TO AMUSEMENTS).

§ 5807.1. PROHIBITION ON ADOPTIVE SEIZURES.
STATE LAW ENFORCEMENT AUTHORITIES SHALL NOT REFER SEIZED
PROPERTY TO A FEDERAL AGENCY SEEKING THE ADOPTION BY THE FEDERAL
AGENCY OF THE SEIZED PROPERTY. NOTHING UNDER THIS CHAPTER SHALL
PROHIBIT THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES FROM
SEEKING FEDERAL FORFEITURE.

§ 5808. EXCEPTIONS.
(A) FORFEITURES EXEMPTED.--FORFEITURES OF PROPERTY SHALL BE
CONDUCTED IN ACCORDANCE WITH THIS CHAPTER, EXCEPT FOR
FORFEITURES AUTHORIZED BY:

(1) SECTION 3 OF THE ACT OF JULY 8, 1978 (P.L.752,
NO.140), KNOWN AS THE PUBLIC EMPLOYEE PENSION FORFEITURE ACT.
(2) SECTION 6 OF THE ACT OF APRIL 6, 1980 (P.L.102,
NO.39), REFERRED TO AS THE AGRICULTURAL LAND ACQUISITION BY
ALIENS LAW.
(3) SECTIONS 207, 211 AND 505-A OF THE ACT OF DECEMBER
7, 1982 (P.L.784, NO.225), KNOWN AS THE DOG LAW.
(4) 18 PA.C.S. § 3021 (RELATING TO ASSET FORFEITURE);
(5) 18 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS);
(6) 18 PA.C.S. § 6110.1 (RELATING TO POSSESSION OF
FIREARM BY MINOR);
(7) 18 PA.C.S. § 6321 (RELATING TO TRANSMISSION OF
SEXUALLY EXPLICIT IMAGES BY MINOR);

(8) 27 PA.C.S. § 6208 (RELATING TO PENALTIES);

(9) 37 PA.C.S. § 511 (RELATING TO CRIMINAL PENALTIES);

(10) 75 PA.C.S. § 9405 (RELATING TO FORFEITURES; PROCESS
AND PROCEDURES).

(B) CONTRABAND.--NOTHING IN THIS CHAPTER SHALL BE CONSTRUED
TO APPLY TO THE FORFEITURE OF THE FOLLOWING:

(1) ITEMS BEARING A COUNTERFEIT MARK UNDER 18 PA.C.S. §
4119 (RELATING TO TRADEMARK COUNTERFEITING).

(2) LIQUOR, ALCOHOL OR MALT OR BREWED BEVERAGES
ILLEGALLY MANUFACTURED OR POSSESSED UNDER SECTION 601 OF THE
ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR
CODE.

(3) UNLAWFULLY STAMPED CIGARETTES UNDER SECTION 307 OF
THE ACT OF DECEMBER 30, 2003 (P.L.441, NO.64), KNOWN AS THE
TOBACCO PRODUCT MANUFACTURER DIRECTORY ACT.

(4) UNSTAMPED CIGARETTES UNDER SECTION 1285 OF THE ACT
OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE
OF 1971.

(C) ABANDONED AND UNCLAIMED PROPERTY.--THIS CHAPTER SHALL
NOT APPLY TO ABANDONED OR UNCLAIMED PROPERTY UNDER ARTICLE
XIII.1 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS
THE FISCAL CODE. A DEFENDANT IN A CRIMINAL CASE WHO DISCLAIMS
OWNERSHIP OF PROPERTY DURING THE CRIMINAL CASE MAY NOT CLAIM
OWNERSHIP DURING A SUBSEQUENT FORFEITURE PROCEEDING.

SECTION 8. SECTION 6801(A) AND (B) OF TITLE 42 ARE AMENDED
TO READ:

§ 6801. CONTROLLED SUBSTANCES FORFEITURE.

[ (A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT
TO FORFEITURE TO THE COMMONWEALTH AND NO PROPERTY RIGHT SHALL
EXIST IN THEM:

(1) ALL DRUG PARAPHERNALIA, CONTROLLED SUBSTANCES OR OTHER DRUGS WHICH HAVE BEEN MANUFACTURED, DISTRIBUTED, DISPENSED OR ACQUIRED IN VIOLATION OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(2) ALL RAW MATERIALS, PRODUCTS AND EQUIPMENT OF ANY KIND WHICH ARE USED, OR INTENDED FOR USE, IN MANUFACTURING, COMPOUNDING, PROCESSING, DELIVERING, IMPORTING OR EXPORTING ANY CONTROLLED SUBSTANCE OR OTHER DRUG IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(3) ALL PROPERTY WHICH IS USED, OR INTENDED FOR USE, AS A CONTAINER FOR PROPERTY DESCRIBED IN PARAGRAPH (1) OR (2).

(4) ALL CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES OR VESSELS, WHICH ARE USED OR ARE INTENDED FOR USE TO TRANSPORT, OR IN ANY MANNER TO FACILITATE THE TRANSPORTATION, SALE, RECEIPT, POSSESSION OR CONCEALMENT OF, PROPERTY DESCRIBED IN PARAGRAPH (1) OR (2), EXCEPT THAT:

(I) NO CONVEYANCE USED BY ANY PERSON AS A COMMON CARRIER IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER SHALL BE FORFEITED UNDER THE PROVISIONS OF THIS SECTION UNLESS IT SHALL APPEAR THAT THE OWNER OR OTHER PERSON IN CHARGE OF SUCH CONVEYANCE WAS A CONSENTING PARTY OR PRIVY TO A VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT;

(II) NO CONVEYANCE SHALL BE FORFEITED UNDER THE PROVISIONS OF THIS SECTION BY REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE OWNER THEREOF TO HAVE BEEN COMMITTED OR OMITTED WITHOUT HIS KNOWLEDGE OR CONSENT, WHICH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE
UNDER THE CIRCUMSTANCES PRESENTED;

(III) NO BONA FIDE SECURITY INTEREST RETAINED OR ACQUIRED UNDER 13 PA.C.S. (RELATING TO COMMERCIAL CODE) BY ANY MERCHANT DEALING IN NEW OR USED AIRCRAFT, VEHICLES OR VESSELS, OR RETAINED OR ACQUIRED BY ANY LICENSED OR REGULATED FINANCE COMPANY, BANK OR LENDING INSTITUTION, OR BY ANY OTHER BUSINESS REGULARLY ENGAGED IN THE FINANCING OF, OR LENDING ON THE SECURITY OF, SUCH AIRCRAFT, VEHICLES OR VESSELS, SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT; AND

(IV) NO CONVEYANCE SHALL BE FORFEITED UNDER THIS SECTION FOR VIOLATION OF SECTION 13(A)(31) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(5) ALL BOOKS, RECORDS AND RESEARCH, INCLUDING FORMULAS, MICROFILM, TAPES AND DATA, WHICH ARE USED OR INTENDED FOR USE IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(6) (I) ALL OF THE FOLLOWING:

(A) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR OTHER THINGS OF VALUE FURNISHED OR INTENDED TO BE FURNISHED BY ANY PERSON IN EXCHANGE FOR A CONTROLLED SUBSTANCE IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, AND ALL PROCEEDS TRACEABLE TO SUCH AN EXCHANGE.

(B) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR OTHER THINGS OF VALUE USED OR INTENDED TO BE USED TO FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(C) REAL PROPERTY USED OR INTENDED TO BE USED TO FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE,
DRUG, DEVICE AND COSMETIC ACT, INCLUDING STRUCTURES
OR OTHER IMPROVEMENTS THEREON, AND INCLUDING ANY
RIGHT, TITLE AND INTEREST IN THE WHOLE OR ANY LOT OR
TRACT OF LAND AND ANY APPURTENANCES OR IMPROVEMENTS,
WHICH IS USED, OR INTENDED TO BE USED, IN ANY MANNER
OR PART, TO COMMIT, OR TO FACILITATE THE COMMISSION
OF, A VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT, AND THINGS GROWING ON,
AFFIXED TO AND FOUND IN THE LAND.

(II) NO PROPERTY SHALL BE FORFEITED UNDER THIS
PARAGRAPH, TO THE EXTENT OF THE INTEREST OF AN OWNER, BY
REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE OWNER TO
HAVE BEEN COMMITTED OR OMITTED WITHOUT THE KNOWLEDGE OR
CONSENT OF THAT OWNER. SUCH MONEY AND NEGOTIABLE
INSTRUMENTS FOUND IN CLOSE PROXIMITY TO CONTROLLED
SUBSTANCES POSSESSED IN VIOLATION OF THE CONTROLLED
SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT SHALL BE
REBUTTALLY PRESUMED TO BE PROCEEDS DERIVED FROM THE
SELLING OF A CONTROLLED SUBSTANCE IN VIOLATION OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

(III) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY
SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS
PARAGRAPH. A LIEN WHICH IS FRAUDULENT OR INTENDED TO
AVOID FORFEITURE UNDER THIS SECTION SHALL BE INVALID.

(7) ANY FIREARMS, INCLUDING, BUT NOT LIMITED TO, RIFLES,
SHOTGUNS, PISTOLS, REVOLVERS, MACHINE GUNS, ZIP GUNS OR ANY
TYPE OF PROHIBITED OFFENSIVE WEAPON, AS THAT TERM IS DEFINED
IN 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES), WHICH ARE
USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE
CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. SUCH
OPERABLE FIREARMS AS ARE FOUND IN CLOSE PROXIMITY TO ILLEGALLY POSSESSED CONTROLLED SUBSTANCES SHALL BE REBUTTALLY PRESUMED TO BE USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. ALL WEAPONS FORFEITED UNDER THIS SECTION SHALL BE IMMEDIATELY DESTROYED BY THE RECEIVING LAW ENFORCEMENT AGENCY.

(B) PROCESS AND SEIZURE.--PROPERTY SUBJECT TO FORFEITURE UNDER THIS CHAPTER MAY BE SEIZED BY THE LAW ENFORCEMENT AUTHORITY UPON PROCESS ISSUED BY ANY COURT OF COMMON PLEAS HAVING JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS MAY BE MADE IF:

(1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A SEARCH WARRANT OR INSPECTION UNDER AN ADMINISTRATIVE INSPECTION WARRANT;

(2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS CHAPTER;

(3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DANGEROUS TO HEALTH OR SAFETY; OR

(4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.]

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SECTION 8.1. SECTIONS 6801.1 AND 6802 OF TITLE 42 ARE REPEALED:

[§ 6801.1. TERRORISM FORFEITURE.

(A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT TO FORFEITURES TO THE COMMONWEALTH, AND NO PROPERTY RIGHT SHALL
EXIST IN THEM:

(1) ALL ASSETS, FOREIGN OR DOMESTIC:
   (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED
   IN PLANNING OR PERPETRATING AN ACT IN THIS COMMONWEALTH
   WHICH VIOLATES 18 PA.C.S. § 2717 (RELATING TO TERRORISM)
   AND ALL ASSETS, FOREIGN OR DOMESTIC, AFFORDING A PERSON A
   SOURCE OF INFLUENCE OVER SUCH AN ENTITY OR ORGANIZATION.
   (II) ACQUIRED OR MAINTAINED BY A PERSON WITH THE
   INTENT AND FOR THE PURPOSE OF SUPPORTING, PLANNING,
   CONDUCTING OR CONCEALING AN ACT IN THIS COMMONWEALTH
   WHICH VIOLATES 18 PA.C.S. § 2717.
   (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED
   TO BE USED TO COMMIT AN ACT IN THIS COMMONWEALTH WHICH
   VIOLATES 18 PA.C.S. § 2717.

(2) ALL ASSETS WITHIN THIS COMMONWEALTH:
   (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED
   IN PLANNING OR PERPETRATING AN ACT WHICH VIOLATES 18
   PA.C.S. § 2717.
   (II) ACQUIRED OR MAINTAINED WITH THE INTENT AND FOR
   THE PURPOSE OF SUPPORTING, PLANNING, CONDUCTING OR
   CONCEALING AN ACT WHICH VIOLATES 18 PA.C.S. § 2717.
   (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED
   TO BE USED TO COMMIT AN ACT WHICH VIOLATES 18 PA.C.S. §
   2717.

(B) PROCESS AND SEIZURES.—PROPERTY SUBJECT TO FORFEITURE
UNDER THIS SECTION MAY BE SEIZED BY THE LAW ENFORCEMENT
AUTHORITY UPON PROCESS ISSUED BY A COURT OF COMMON PLEAS HAVING
JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS MAY BE
MADE IF ANY OF THE FOLLOWING APPLY:

(1) THE SEIZURE IS INCIDENT TO AN ARREST, A SEARCH UNDER
A SEARCH WARRANT OR AN INSPECTION UNDER AN ADMINISTRATIVE INSPECTION WARRANT.

(2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS CHAPTER.

(3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY IS DANGEROUS TO HEALTH OR SAFETY.

(4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY HAS BEEN OR IS INTENDED TO BE USED IN THE COMMISSION OF AN ACT WHICH VIOLATES 18 PA.C.S. § 2717.

(C) SEIZURE WITHOUT PROCESS.--IN THE EVENT SEIZURE IS MADE WITHOUT PROCESS, PROCEEDINGS FOR THE ISSUANCE OF PROCESS SHALL BE INSTITUTED FORTHWITH.

(D) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY, SUBJECT ONLY TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING JURISDICTION OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL. WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE LAW ENFORCEMENT AUTHORITY SHALL PLACE THE PROPERTY UNDER SEAL AND EITHER:

(1) REMOVE THE PROPERTY TO A PLACE DETERMINED BY THE LAW ENFORCEMENT AUTHORITY; OR

(2) REQUEST THAT THE DISTRICT ATTORNEY OR ATTORNEY GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE IT TO AN APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.

(E) USE OF PROPERTY HELD IN CUSTODY.--WHENEVER PROPERTY IS FORFEITED UNDER THIS SECTION, IT SHALL BE TRANSFERRED TO THE CUSTODY OF THE DISTRICT ATTORNEY IF THE LAW ENFORCEMENT
AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR COUNTY JURISDICTION
OR OF THE ATTORNEY GENERAL IF THE LAW ENFORCEMENT AUTHORITY
SEIZING THE PROPERTY HAS STATEWIDE JURISDICTION. THE DISTRICT
ATTORNEY OR THE ATTORNEY GENERAL, WHERE APPROPRIATE, MAY:

(1) RETAIN THE PROPERTY FOR OFFICIAL USE.

(2) SELL ANY FORFEITED PROPERTY WHICH IS NOT REQUIRED TO
BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC,
THE PROCEEDS FROM ANY SUCH SALE TO BE USED TO PAY ALL PROPER
EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE,
INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY,
ADVERTISING AND COURT COSTS. THE BALANCE OF THE PROCEEDS
SHALL BE DEALT WITH UNDER SUBSECTIONS (F) AND (G).

(F) USE OF CASH OR PROCEEDS OF PROPERTY.--CASH OR PROCEEDS
OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE DISTRICT
ATTORNEY UNDER SUBSECTION (E) SHALL BE PLACED IN THE OPERATING
FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS ELECTED.
THE APPROPRIATE COUNTY AUTHORITY SHALL IMMEDIATELY RELEASE FROM
THE OPERATING FUND, WITHOUT RESTRICTION, A LIKE AMOUNT FOR THE
USE OF THE DISTRICT ATTORNEY IN ENFORCING THE CRIMINAL LAWS OF
THE COMMONWEALTH OF PENNSYLVANIA. THE ENTITY HAVING BUDGETARY
CONTROL SHALL NOT ANTICIPATE FUTURE FORFEITURES OR PROCEEDS
THEREFROM IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE
DISTRICT ATTORNEY.

(G) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT
AUTHORITIES.--IF BOTH MUNICIPAL AND STATE LAW ENFORCEMENT
AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE
SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE
PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN THE
DISTRICT ATTORNEY AND THE ATTORNEY GENERAL.

(H) AUTHORIZATION TO UTILIZE PROPERTY.--THE DISTRICT
ATTORNEY AND THE ATTORNEY GENERAL SHALL UTILIZE FORFEITED PROPERTY OR PROCEEDS THEREOF FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF 18 PA.C.S. § 2717, SECTION 6802 (RELATING TO PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO LIENS AND RIGHTS OF LIENHOLDERS) AND THIS SECTION. IN APPROPRIATE CASES, THE DISTRICT ATTORNEY AND THE ATTORNEY GENERAL MAY DESIGNATE PROCEEDS FROM FORFEITED PROPERTY TO BE UTILIZED FOR ANTITERRORISM PUBLIC SAFETY PROGRAMS AND FOR RELOCATION AND PROTECTION OF WITNESSES IN CRIMINAL CASES.

(I) ANNUAL AUDIT OF FORFEITED PROPERTY.--IT SHALL BE THE RESPONSIBILITY OF EVERY COUNTY IN THIS COMMONWEALTH TO PROVIDE, THROUGH THE CONTROLLER, BOARD OF AUDITORS OR OTHER APPROPRIATE AUDITOR AND THE DISTRICT ATTORNEY, AN ANNUAL AUDIT OF ALL FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION. THE AUDIT SHALL NOT BE MADE PUBLIC BUT SHALL BE SUBMITTED TO THE OFFICE OF ATTORNEY GENERAL. THE COUNTY SHALL REPORT ALL FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION AND THE DISPOSITION THEREOF TO THE ATTORNEY GENERAL BY SEPTEMBER 30 OF EACH YEAR.

(J) ANNUAL REPORT; CONFIDENTIAL INFORMATION REGARDING PROPERTY.--THE ATTORNEY GENERAL SHALL ANNUALLY SUBMIT A REPORT TO THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF THE SENATE AND THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES SPECIFYING THE FORFEITED PROPERTY OR PROCEEDS THEREOF OBTAINED UNDER THIS SECTION. THE REPORT SHALL GIVE AN ACCOUNTING OF ALL PROCEEDS DERIVED FROM THE SALE OF FORFEITED PROPERTY AND THE USE MADE OF UNSOLD FORFEITED PROPERTY. THE ATTORNEY GENERAL SHALL ADOPT PROCEDURES AND GUIDELINES GOVERNING THE RELEASE OF INFORMATION BY THE DISTRICT ATTORNEY TO PROTECT THE CONFIDENTIALITY OF FORFEITED PROPERTY OR
PROCEEDS USED IN ONGOING ANTITERRORIST ACTIVITIES.

(K) PROCEEDS AND APPROPRIATIONS.--THE PROCEEDS OR FUTURE
PROCEEDS FROM PROPERTY FORFEITED UNDER THIS SECTION SHALL BE IN
ADDITION TO ANY APPROPRIATION MADE TO THE OFFICE OF ATTORNEY
GENERAL.

§ 6802.  PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO
LIENS AND RIGHTS OF LIENHOLDERS.

(A) GENERAL PROCEDURE.--THE PROCEEDINGS FOR THE FORFEITURE
OR CONDEMNATION OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR
IN THIS CHAPTER, SHALL BE IN REM, IN WHICH THE COMMONWEALTH
SHALL BE THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A
PETITION SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE
JUDICIAL DISTRICT WHERE THE PROPERTY IS LOCATED, VERIFIED BY
OATH OR AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE
FOLLOWING:

(1) A DESCRIPTION OF THE PROPERTY SEIZED.
(2) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.
(3) THE OWNER, IF KNOWN.
(4) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.
(5) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO
FORFEITURE PURSUANT TO SECTION 6801(A) (RELATING TO
CONTROLLED SUBSTANCES FORFEITURE) OR 6801.1(A) (RELATING TO
TERRORISM FORFEITURE) AND AN AVERMENT OF MATERIAL FACTS UPON
WHICH THE FORFEITURE ACTION IS BASED.
(6) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE
PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND
CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS CAUSE
BE SHOWN TO THE CONTRARY.

(B) NOTICE TO PROPERTY OWNERS.--A COPY OF THE PETITION
REQUIRED UNDER SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY
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CERTIFIED MAIL ON THE OWNER OR UPON THE PERSON OR PERSONS IN
POSSESSION AT THE TIME OF THE SEIZURE. THE COPY SHALL HAVE
ENDORSED A NOTICE, AS FOLLOWS:

TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:
YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION, SETTING
FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF, SAID
PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND YOU ARE
ALSO NOTIFIED THAT, IF YOU FAIL TO FILE SAID ANSWER, A DECREE
OF FORFEITURE AND CONDEMNATION WILL BE ENTERED AGAINST SAID
PROPERTY.

THE NOTICE SHALL BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY
ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY OR
ASSISTANT DISTRICT ATTORNEY.

(C) SUBSTITUTE NOTICE.--IF THE OWNER OF THE PROPERTY IS
UNKNOWN OR THERE WAS NO PERSON IN POSSESSION OF THE PROPERTY
WHEN SEIZED OR IF THE OWNER OR SUCH PERSON OR PERSONS IN
POSSESSION AT THE TIME OF THE SEIZURE CANNOT BE PERSONALLY
SERVED OR LOCATED WITHIN THE JURISDICTION OF THE COURT, NOTICE
OF THE PETITION SHALL BE GIVEN BY THE COMMONWEALTH THROUGH AN
ADVERTISEMENT IN ONLY ONE NEWSPAPER OF GENERAL CIRCULATION
PUBLISHED IN THE COUNTY WHERE THE PROPERTY SHALL HAVE BEEN
SEIZED, ONCE A WEEK FOR TWO SUCCESSIVE WEEKS. NO OTHER
ADVERTISEMENT OF ANY SORT SHALL BE NECESSARY, ANY OTHER LAW TO
THE CONTRARY NOTWITHSTANDING. THE NOTICE SHALL CONTAIN A
STATEMENT OF THE SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF
THE PROPERTY AND THE PLACE AND DATE OF SEIZURE AND SHALL DIRECT
ANY CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A
DATE GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE LESS THAN 30
DAYS FROM THE DATE OF THE FIRST PUBLICATION. IF NO CLAIMS ARE
FILED WITHIN 30 DAYS OF PUBLICATION, THE PROPERTY SHALL
SUMMARILY FORFEIT TO THE COMMONWEALTH.

(D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF THIS SECTION, THE OWNER OR OTHER SUCH PERSON CANNOT BE FOUND IN THE JURISDICTION OF THE COURT IF:

(1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT DELIVERY;
(2) PERSONAL SERVICE IS ATTEMPTED ONCE, BUT CANNOT BE MADE AT THE LAST KNOWN ADDRESS; AND
(3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN ADDRESS.

(E) NOTICE AUTOMATICALLY WAIVED.--THE NOTICE PROVISIONS OF THIS SECTION ARE AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA ON THE UNDERLYING CRIMINAL CHARGES. FORTY-FIVE DAYS AFTER SUCH A FAILURE TO APPEAR, IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

(F) PRESERVATION OF THE PROPERTY SUBJECT FOR FORFEITURE.--UPON APPLICATION OF THE COMMONWEALTH, THE COURT MAY ENTER A RESTRAINING ORDER OR INJUNCTION, REQUIRE THE EXECUTION OF A SATISFACTORY PERFORMANCE BOND OR TAKE ANY OTHER ACTION TO PRESERVE THE AVAILABILITY OF PROPERTY DESCRIBED IN SECTION 6801(A) OR 6801.1(A) FOR FORFEITURE UNDER THIS SECTION EITHER:

(1) UPON THE FILING OF AN INFORMATION OR AN INDICTMENT CHARGING AN OFFENSE IN THIS COMMONWEALTH FOR WHICH CRIMINAL FORFEITURE MAY BE ORDERED UNDER THIS CHAPTER AND ALLEGING THAT THE PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT TO FORFEITURE; OR
(2) PRIOR TO THE FILING OF SUCH AN INDICTMENT OR INFORMATION, IF, AFTER NOTICE TO PERSONS APPEARING TO HAVE AN INTEREST IN THE PROPERTY AND AN OPPORTUNITY FOR A HEARING,
THE COURT DETERMINES THAT:

(I) THERE IS A SUBSTANTIAL PROBABILITY THAT THE
COMMONWEALTH WILL PREVAIL ON THE ISSUE OF FORFEITURE AND
THAT FAILURE TO ENTER THE ORDER WILL RESULT IN THE
PROPERTY BEING DESTROYED, REMOVED FROM THE JURISDICTION
OF THE COURT OR OTHERWISE MADE UNAVAILABLE FOR
FORFEITURE; AND

(II) THE NEED TO PRESERVE THE AVAILABILITY OF THE
PROPERTY THROUGH THE ENTRY OF THE REQUESTED ORDER
OUTWEIGHS THE HARDSHIP ON ANY PARTY AGAINST WHOM THE
ORDER IS TO BE ENTERED.

HOWEVER, AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH SHALL BE
EFFECTIVE FOR NOT MORE THAN 90 DAYS UNLESS EXTENDED BY THE
COURT FOR GOOD CAUSE SHOWN OR UNLESS AN INDICTMENT OR
INFORMATION DESCRIBED IN PARAGRAPH (1) HAS BEEN FILED.

(G) TEMPORARY RESTRAINING ORDER.--A TEMPORARY RESTRAINING
ORDER UNDER SUBSECTION (F) MAY BE ENTERED UPON APPLICATION OF
THE COMMONWEALTH WITHOUT NOTICE OR OPPORTUNITY FOR A HEARING
WHEN AN INFORMATION OR INDICTMENT HAS NOT YET BEEN FILED WITH
RESPECT TO THE PROPERTY, IF THE COMMONWEALTH DEMONSTRATES THAT
THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY WITH
RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT TO
FORFEITURE UNDER THIS CHAPTER AND THAT PROVISION OF NOTICE WILL
JEOPARDIZE THE AVAILABILITY OF THE PROPERTY FOR FORFEITURE. SUCH
A TEMPORARY ORDER SHALL EXPIRE NOT MORE THAN TEN DAYS AFTER THE
DATE ON WHICH IT IS ENTERED, UNLESS EXTENDED FOR GOOD CAUSE
SHOWN OR UNLESS THE PARTY AGAINST WHOM IT IS ENTERED CONSENTS TO
AN EXTENSION FOR A LONGER PERIOD. A HEARING REQUESTED CONCERNING
AN ORDER ENTERED UNDER THIS SUBSECTION SHALL BE HELD AT THE
EARLIEST POSSIBLE TIME AND PRIOR TO THE EXPIRATION OF THE
TEMPORARY ORDER.

(H) HEARING REGARDING PROPERTY; RULES OF EVIDENCE.--THE COURT MAY RECEIVE AND CONSIDER, AT A HEARING HELD PURSUANT TO SUBSECTION (F) OR (G), EVIDENCE AND INFORMATION THAT WOULD BE INADMISSIBLE UNDER THE RULES OF EVIDENCE.

(I) HEARING TIME SET.--UPON THE FILING OF A CLAIM FOR THE PROPERTY SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT ISSUE AND A TIME SHALL BE FIXED FOR THE HEARING.

(J) OWNER'S BURDEN OF PROOF.--AT THE TIME OF THE HEARING, IF THE COMMONWEALTH PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO FORFEITURE UNDER SECTION 6801(A) OR 6801.1(A), THE BURDEN SHALL BE UPON THE CLAIMANT TO SHOW:

(1) THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE THEREON.

(2) THAT THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

(3) THAT IT WAS NOT UNLAWFULLY USED OR POSSESSED BY HIM. IN THE EVENT THAT IT SHALL APPEAR THAT THE PROPERTY WAS UNLAWFULLY USED OR POSSESSED BY A PERSON OTHER THAN THE CLAIMANT, THEN THE CLAIMANT SHALL SHOW THAT THE UNLAWFUL USE OR POSSESSION WAS WITHOUT HIS KNOWLEDGE OR CONSENT. SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES PRESENTED.

(K) COURT-ORDERED RELEASE OF PROPERTY.--IF A PERSON CLAIMING THE OWNERSHIP OF OR RIGHT OF POSSESSION TO OR CLAIMING TO BE THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE UPON THE PROPERTY, THE DISPOSITION OF WHICH IS PROVIDED FOR IN THIS SECTION, PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT ALLEGING OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF
POSSESSION, A LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC
HEARING, DUE NOTICE OF WHICH HAVING BEEN GIVEN TO THE ATTORNEY
GENERAL OR THE DISTRICT ATTORNEY, THE CLAIMANT SHALL PROVE BY
COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT THAT THE
PROPERTY WAS LAWFULLY ACQUIRED, POSSESSED AND USED BY HIM OR, IT
APPEARING THAT THE PROPERTY WAS UNLAWFULLY USED BY A PERSON
OTHER THAN THE CLAIMANT, THAT THE UNLAWFUL USE WAS WITHOUT THE
CLAIMANT'S KNOWLEDGE OR CONSENT, THEN THE COURT MAY ORDER THE
PROPERTY RETURNED OR DELIVERED TO THE CLAIMANT. SUCH ABSENCE OF
KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES
PRESENTED. OTHERWISE, IT SHALL BE RETAINED FOR OFFICIAL USE OR
SOLD IN ACCORDANCE WITH SECTION 6801(E) OR 6801.1(F).]
SECTION 9. SECTIONS 4909(C), 9405(A), (B), (C)(1), (D), (I)
AND (J) AND 9406 OF TITLE 75 ARE AMENDED TO READ:
§ 4909. TRANSPORTING FOODSTUFFS IN VEHICLES USED TO TRANSPORT
WASTE.
* * *
(C) VEHICLE FORFEITURE.--ANY VEHICLE OR CONVEYANCE USED IN
THE COMMISSION OF AN OFFENSE UNDER THIS SECTION SHALL BE DEEMED
CONTRABAND AND FORFEITED [TO THE DEPARTMENT OF ENVIRONMENTAL
RESOURCES. THE PROVISIONS OF LAW RELATING TO THE SEIZURE,
SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION OF
INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES
UNDER THIS SECTION. PROCEEDS FROM THE SALE OF FORFEITED VEHICLES
OR CONVEYANCES SHALL BE DEPOSITED IN THE SOLID WASTE ABATEMENT
FUND] IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO
FORFEITURE OF ASSETS).
* * *
§ 9405. FORFEITURES; PROCESS AND PROCEDURES.
(A) SUBJECTS OF FORFEITURE.--THE FOLLOWING ARE SUBJECT TO
FORFEITURE TO THE COMMONWEALTH AND NO PROPERTY RIGHT SHALL EXIST IN THEM:

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

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

   I. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Chapter 90 (relating to liquid fuels and fuels tax); and

   II. No bona fide security interest retained or acquired under Title 13 (relating to commercial code) by any merchant dealing in new or used vehicles or vessels, or retained or acquired by any licensed or regulated finance company, bank, lending institution or by any other business regularly engaged in the financing of or lending on the security of such vehicles or vessels, shall be subject to forfeiture or impairment.] Forfeiture of such conveyances shall be conducted in accordance with 42 Pa.C.S. Ch. 58 (relating to forfeiture of assets).
(B) METHOD OF SEIZURE.--[PROPERTY] LIQUID FUELS OR FUELS
SUBJECT TO FORFEITURE UNDER THIS SECTION MAY BE SEIZED BY THE
DEPARTMENT OF REVENUE UPON PROCESS ISSUED BY ANY COURT OF COMMON
PLEAS HAVING JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT
PROCESS MAY BE MADE IF THE SEIZURE IS INCIDENT TO AN INSPECTION
OR ARREST FOR A VIOLATION OF THIS CHAPTER OR CHAPTER 90.

(C) LIMIT ON RETURN OF [PROPERTY] LIQUID FUELS OR FUELS.--

(1) NO [PROPERTY] LIQUID FUELS OR FUELS SEIZED IN
ACCORDANCE WITH THIS SECTION, WHEN IN THE CUSTODY OF THE
DEPARTMENT OF REVENUE, SHALL BE SEIZED OR TAKEN THEREFROM BY
ANY WRIT OF REPLEVIN OR OTHER JUDICIAL PROCESS UNLESS A
PETITION FOR FORFEITURE IS NOT TIMELY FILED.

* * *

(D) IN REM PROCEEDINGS.--THE PROCEEDINGS FOR THE FORFEITURE
OF ANY LIQUID FUELS OR FUELS [OR CONVEYANCES] SEIZED UNDER THIS
SECTION SHALL BE IN REM. THE COMMONWEALTH SHALL BE THE PLAINTIFF
AND THE PROPERTY SHALL BE THE DEFENDANT. A PETITION SHALL BE
FILED, WITHIN FIVE DAYS AFTER SEIZURE, IN THE COURT OF COMMON
PLEAS OF THE COUNTY IN WHICH THE PROPERTY WAS SEIZED BY REVENUE
AGENTS OF THE DEPARTMENT OF REVENUE, VERIFIED BY OATH OR
AFFIRMATION OF ANY REVENUE AGENT. IN THE EVENT THAT THE PETITION
IS NOT FILED WITHIN THE TIME PRESCRIBED HEREIN, THE SEIZED
PROPERTY SHALL BE IMMEDIATELY RETURNED TO THE PERSON FROM WHOM
SEIZED OR THE OWNER THEREOF.

* * *

(I) STANDARD OF PROOF.--THE CLAIMANT SHALL HAVE THE BURDEN
OF PROVING THAT HE IS NOT SUBJECT TO THE PROVISIONS OF THIS
SECTION, BUT THE BURDEN OF PROOF SHALL BE UPON THE COMMONWEALTH
TO PROVE ALL OTHER FACTS NECESSARY FOR THE FORFEITURE OF THE
PROPERTY. IN THE EVENT THAT THE COMMONWEALTH HAS NOT MET ITS
BURDEN BY A PREPONDERANCE OF THE EVIDENCE OR THE CLAIMANT HAS PROVED THAT HE IS NOT SUBJECT TO THE PROVISIONS OF THIS SECTION, THE COURT SHALL ORDER THE PROPERTY RETURNED TO THE CLAIMANT; OTHERWISE, THE COURT SHALL ORDER THE PROPERTY FORFEITED TO THE COMMONWEALTH. [IN THE CASE OF A MOTOR VEHICLE, VESSEL OR CONVEYANCE, SHOULD THE CLAIMANT PROVE TO THE SATISFACTION OF THE COURT THAT HE IS THE REGISTERED OWNER OF THE MOTOR VEHICLE, VESSEL OR CONVEYANCE AND THAT HE DID NOT KNOW OR HAVE REASON TO KNOW THAT IT WAS BEING USED TO TRANSPORT LIQUID FUELS OR FUELS IN VIOLATION OF THE PROVISIONS OF SECTION 9404 (RELATING TO VIOLATIONS AND PENALTIES) OR 9019 (RELATING TO DIESEL FUEL IMPORTERS AND TRANSPORTERS; PROHIBITING USE OF DYED DIESEL FUEL ON HIGHWAYS; VIOLATIONS AND PENALTIES), THE COURT IN ITS DISCRETION MAY ORDER THE MOTOR VEHICLE, VESSEL OR CONVEYANCE RETURNED TO THE CLAIMANT.

(J) ENCUMBERED MOTOR VEHICLE.--IN THE CASE OF A MOTOR VEHICLE, SHOULD THE CLAIMANT PROVE THAT HE HOLDS A VALID ENCUMBRANCE UPON SUCH MOTOR VEHICLE, NOTICE OF WHICH ENCUMBRANCE HAS BEEN DULY NOTED ON THE CERTIFICATE OF TITLE TO THE MOTOR VEHICLE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 11 (RELATING TO CERTIFICATE OF TITLE AND SECURITY INTERESTS), THE FORFEITURE SHALL BE SUBJECT TO SUCH ENCUMBRANCE AS OF THE DATE OF THE SEIZURE LESS PREPAID OR UNEARNED INTEREST. BEFORE THE MOTOR VEHICLE MAY BE SOLD, EXCHANGED OR OTHERWISE TRANSFERRED OR RETAINED FOR USE BY THE COMMONWEALTH, THE OUTSTANDING AMOUNT OF THE ENCUMBRANCE SHALL BE PAID TO THE CLAIMANT OR POSSESSION OF THE MOTOR VEHICLE SHALL BE TURNED OVER TO THE CLAIMANT WHO SHALL EXPOSE THE SAME TO PUBLIC SALE AND SHALL PAY OVER TO THE COMMONWEALTH ANY AMOUNT REALIZED IN EXCESS OF THE OUTSTANDING AMOUNT OF SUCH ENCUMBRANCE LESS THE REASONABLE COSTS INCURRED BY
§ 9406. DISPOSITION OF FINES AND FORFEITURES.

All fines imposed under this chapter and the net proceeds received from the sale of forfeited [property] liquid fuels or fuels shall be payable to the commonwealth and credited to the motor license fund.

SECTION 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE FOLLOWING FORFEITURES SHALL BE CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH. 58:

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

(2) The seizure of property specified in sections 211(A) (3) and 601 of the act of April 12, 1951 (P.L.90, No.21), known as the liquor code.

(3) The forfeiture of property specified in section 1285 of the act of March 4, 1971 (P.L.6, No.2), known as the tax reform code of 1971.

(4) The forfeiture of property specified in section 614 of the act of July 7, 1980 (P.L.380, No.97), known as the solid waste management act.


(6) The forfeiture of property specified in section 1 of the act of December 1, 2004 (P.L.1766, No.227), entitled "An act authorizing cities of the first class that have adopted a..."
HOME RULE CHARTER TO ENFORCE ORDINANCES, RULES AND
REGULATIONS PROHIBITING DUMPING OR DISPOSAL OF WASTE, TRASH
OR DEBRIS."

SECTION 11. REPEALS ARE AS FOLLOWS:

(1) THE GENERAL ASSEMBLY FINDS THAT THE REPEALS UNDER
PARAGRAPHS (2) AND (3) ARE NECESSARY TO EFFECTUATE THE
ADDITION OF 42 PA.C.S. CH. 58.

(2) SECTIONS 602 AND 603(A) AND (B) OF THE ACT OF APRIL
12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, ARE
REPEALED TO THE EXTENT OF ANY INCONSISTENCY WITH THIS ACT.

(3) THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED
ABSOLUTELY:

(I) SECTIONS 2, 3, 4 AND 5 OF THE ACT OF JULY 3,
1941 (P.L.263, NO.121), ENTITLED "AN ACT PROVIDING FOR
THE FORFEITURE AND CONDEMNATION OF VEHICLES USED TO
STORE, POSSESS OR TRANSPORT NARCOTICS OR DRUGS, THE
POSSESSION OR TRANSPORTATION OF WHICH IS IN VIOLATION OF
LAW."

(II) SECTION 603(C) OF THE ACT OF APRIL 12, 1951
(P.L.90, NO.21), KNOWN AS THE LIQUOR CODE.

(III) SECTION 1285(F), (G), (H), (I), (J), (K), (L),
(M) AND (N) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),

SECTION 12. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.