

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 278 Session of  
2005

INTRODUCED BY KASUNIC, COSTA, O'PAKE, STOUT, STACK, BOSCOLA,  
LAVALLE, MUSTO, RHOADES, KITCHEN AND LOGAN, FEBRUARY 15, 2005

REFERRED TO JUDICIARY, FEBRUARY 15, 2005

AN ACT

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

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

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

8 § 6801. Loss of property rights to Commonwealth.

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

12 \* \* \*

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

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

1 traceable to such an exchange.

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

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

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

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

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

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

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

15 \* \* \*

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

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

30 (1) If both municipal and State law enforcement

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

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

12 \* \* \*

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