

HOUSE BILL REPORT

ESSB 5815

As Reported By House Committee On:
Judiciary

Title: An act relating to seizure and forfeiture.

Brief Description: Concerning seizure and forfeiture.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators West and Moyer).

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DPA.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Bill Perry (786-7123).

Background: Under the state's Uniform Controlled Substances Act, illegal drugs, and any real or personal property associated with the production, delivery, importation, or exportation of illegal drugs, are generally subject to seizure and forfeiture by law enforcement authorities. Forfeiture is a civil procedure that does not require arrest, charging, or conviction of a person for a criminal offense. Property may not be forfeited if the owner did not know of or consent to the act that is the basis for the seizure and forfeiture action.

A person whose personal or real property is seized by a law enforcement agency is afforded the opportunity at a hearing to make a claim of ownership or right to possession. The person must notify the seizing law enforcement agency in writing within 45 days of the seizure in the case of personal property, and 90 days in the case of real property. The hearing is before the chief law enforcement officer of the seizing agency or his or her designee. If the seizing agency is a state agency, the hearing is before the chief

law enforcement officer of the seizing agency or an administrative law judge.

Any person asserting a claim or right to the property may remove the case to a court of competent jurisdiction if the total value of the seized items is more than \$500. However, there are no express provisions in the current law for the procedures to be used in removing the case to a court.

Summary of Amended Bill: A person asserting a claim of ownership or right to possession with regard to seized property may only remove the case to a court of competent jurisdiction according to the rules of civil procedure.

The person who seeks to remove the case is required to serve process, in accordance with existing statutory requirements for service of process, against the state or political subdivision which operates the seizing agency and any other party of interest. The service of process must occur within 45 days after a person notifies the seizing agency of his or her claim of ownership.

Amended Bill Compared to Engrossed Substitute Bill: The amended bill removes a provision that would limit protection for innocent owners of personal property to owners who are devisees, legatees, or bona fide purchasers for value.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current law provides no procedure for removing cases to court. The bill will benefit both sides in a dispute by making it clear how to remove a case.

Testimony Against: None.

Witnesses: Rocco Treppiedi and Salvatore Faggiano, Spokane City Attorney's Office (pro); Chris Bacha, Tacoma City Attorney's Office; and Richard Troberman, Washington Association of Criminal Defense Lawyers (opposed the bill before it was amended).