
HOUSE BILL 2973

State of Washington

55th Legislature

1998 Regular Session

By Representative McMorris

Read first time 01/26/98. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to clarifying the role of the liquor control board
2 to hear appeals relating to the seizure and forfeiture of cigarettes;
3 and amending RCW 82.24.135.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.24.135 and 1987 c 496 s 3 are each amended to read
6 as follows:

7 In all cases of seizure of any property made subject to forfeiture
8 under this chapter the department shall proceed as follows:

9 (1) Forfeiture shall be deemed to have commenced by the seizure.
10 Notice of seizure shall be given to the department or the board
11 immediately if the seizure is made by someone other than an agent of
12 the department or the board authorized to collect taxes.

13 (2) Upon notification or seizure by the department or the board or
14 upon receipt of property subject to forfeiture under this chapter from
15 any other person, the department or the board shall list and
16 particularly describe the property seized in duplicate and have the
17 property appraised by a qualified person not employed by the department
18 or the board or acting as its agent. Listing and appraisal of the
19 property shall be properly attested by the department or the board and

1 the appraiser, who shall be allowed a reasonable appraisal fee. No
2 appraisal is required if the property seized is judged by the
3 department or the board to be less than one hundred dollars in value.

4 (3) The department or the board shall cause notice to be served
5 within five days following the seizure or notification to the
6 department or the board of the seizure on the owner of the property
7 seized, if known, on the person in charge thereof, and on any other
8 person having any known right or interest therein, of the seizure and
9 intended forfeiture of the seized property. The notice may be served
10 by any method authorized by law or court rule including but not limited
11 to service by mail. If service is by mail it shall be by both
12 certified mail with return receipt requested and regular mail. Service
13 by mail shall be deemed complete upon mailing within the five-day
14 period following the seizure or notification of the seizure to the
15 department or the board.

16 (4) If no person notifies the department or the board in writing of
17 the person's claim of ownership or right to possession of the items
18 seized within fifteen days of the date of the notice of seizure, the
19 item seized shall be considered forfeited.

20 (5) If any person notifies the department or the board, in writing,
21 of the person's claim of ownership or right to possession of the items
22 seized within fifteen days of the date of the notice of seizure, the
23 person or persons shall be afforded a reasonable opportunity to be
24 heard as to the claim or right. The hearing shall be before the
25 director or the director's designee or the board or the board's
26 designee, except that any person asserting a claim or right may bring
27 an action for return of the seized items in the superior court of the
28 county in which such property was seized, if the aggregate value of the
29 article or articles involved is more than five hundred dollars. A
30 hearing before the seizing agency and any appeal therefrom shall be in
31 accordance with chapter 34.05 RCW. The burden of proof by a
32 preponderance of the evidence shall be upon the person claiming to be
33 the lawful owner or the person claiming to have the lawful right to
34 possession of the items seized. The department or the board shall
35 promptly return the article or articles to the claimant upon a
36 determination that the claimant is the present lawful owner or is
37 lawfully entitled to possession thereof of the items seized.

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