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HOUSE BILL 1650

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Hurst and Hudgins

Read first time 01/26/15. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to the seizure and disposition of marijuana and  
2 processed marijuana products by state and local law enforcement  
3 agencies; amending RCW 69.50.363, 69.50.366, 69.50.325, and  
4 69.50.505; and adding a new section to chapter 69.50 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50  
7 RCW to read as follows:

8 (1) Subject to the requirements of RCW 69.50.505 and the other  
9 provisions of this chapter, any state or local law enforcement agency  
10 may seize and sell at auction any marijuana, marijuana concentrates,  
11 and marijuana-infused products that have been illegally grown,  
12 produced, processed, or possessed in violation of the requirements of  
13 this chapter and which are subject to seizure and summary forfeiture  
14 under RCW 69.50.505 (11) or (12). Only those marijuana producers and  
15 marijuana processors licensed by the state liquor control board under  
16 this chapter may participate as buyers in the auction. The auction  
17 must be administered by either the law enforcement agency responsible  
18 for the seizure or by the state liquor control board.

19 (2) Prior to seizing or harvesting marijuana plants growing on  
20 private property, the law enforcement agency must consult with the  
21 state liquor control board to determine whether the marijuana is

1 being lawfully grown by a marijuana producer licensed under this  
2 chapter. The state liquor control board must implement a  
3 communication system that ensures both the timely determination of  
4 whether such marijuana plants are being lawfully grown and the  
5 communication of this information to the appropriate law enforcement  
6 agency.

7 (3) Prior to the auctioning of marijuana, marijuana concentrates,  
8 or marijuana-infused products pursuant to this section, a state or  
9 local law enforcement agency must provide notice of the seizure and  
10 proposed auction to the state liquor control board and to those  
11 federal, state, and local law enforcement agencies having concurrent  
12 jurisdiction over the territory in which the seizure occurred. In no  
13 event shall marijuana, marijuana concentrates, and marijuana-infused  
14 products be harvested, processed, auctioned, or otherwise disposed of  
15 if such action might result in the loss, damage, or destruction of  
16 evidence needed for the purpose of criminal investigations, criminal  
17 prosecutions, or related civil legal actions.

18 (4) Prior to the completion of the auction process, the law  
19 enforcement agency conducting the auction is solely responsible for  
20 preservation and secure storage of any marijuana, marijuana  
21 concentrates, and marijuana-infused products seized pursuant to this  
22 section. If the seized marijuana is in the form of plants or  
23 unprocessed plant material, the law enforcement agency is authorized  
24 to harvest and process such plants or plant material and take any  
25 other action necessary to preserve the viability of the marijuana for  
26 auction.

27 (5) Licensed marijuana producers and processors must receive at  
28 least twenty-four hours notice of any auction conducted under this  
29 section and shall have an opportunity to inspect the marijuana,  
30 marijuana concentrates, and marijuana-infused products subject to  
31 auction not less than four hours prior to such auction. The notice  
32 required under this section shall be provided by the state liquor  
33 control board on its public web site.

34 (6) An auction conducted under this section must be administered  
35 by either the law enforcement agency responsible for the seizure of  
36 the marijuana or marijuana products subject to auction or by the  
37 state liquor control board, to be determined at the option of the law  
38 enforcement agency.

39 (7)(a) With respect to marijuana, marijuana concentrates, and  
40 marijuana-infused products seized and subject to auction by law

1 enforcement agencies under this section, the state liquor control  
2 board's jurisdiction over such marijuana, marijuana concentrates, and  
3 marijuana-infused products commences only after a licensed producer  
4 or processor obtains possession of the marijuana, marijuana  
5 concentrates, and marijuana-infused products following purchase at  
6 auction.

7 (b) Commerce in marijuana, marijuana concentrates, and marijuana-  
8 infused products purchased by a licensed producer or processor  
9 pursuant to auction under this section is subject to the same  
10 statutory and regulatory requirements applicable to marijuana,  
11 marijuana concentrates, and marijuana-infused products that are  
12 lawfully grown or processed within premises owned or controlled by  
13 such producer or processor.

14 (8) The monetary proceeds obtained from an auction conducted  
15 under this section shall be retained by the state or local law  
16 enforcement agency that seized the marijuana, marijuana concentrates,  
17 and marijuana-infused products for the purpose of auction.

18 (9) The state liquor control board is authorized to establish  
19 those administrative rules necessary for the implementation of this  
20 section including, but not limited to, rules governing the auctioning  
21 of marijuana, marijuana concentrates, and marijuana-infused products,  
22 the procedures by which a licensed producer or processor may take  
23 possession of the marijuana or processed marijuana products following  
24 auction, and any special labeling deemed necessary for marijuana or  
25 processed marijuana products purchased at auction.

26 **Sec. 2.** RCW 69.50.363 and 2013 c 3 s 16 are each amended to read  
27 as follows:

28 The following acts, when performed by a validly licensed  
29 marijuana processor or employee of a validly licensed marijuana  
30 processor in compliance with rules adopted by the state liquor  
31 control board to implement and enforce chapter 3, Laws of 2013, shall  
32 not constitute criminal or civil offenses under Washington state law:

33 (1) Purchase and receipt of marijuana that has been properly  
34 packaged and labeled from a marijuana producer validly licensed under  
35 chapter 3, Laws of 2013;

36 (2) Purchase and possession of marijuana, marijuana concentrates,  
37 and marijuana-infused products obtained at auction pursuant to  
38 section 1 of this act;

1        (3) Possession, processing, packaging, and labeling of quantities  
2 of marijuana, useable marijuana, and marijuana-infused products that  
3 do not exceed the maximum amounts established by the state liquor  
4 control board under RCW 69.50.345(4); and

5        ~~((+3))~~ (4) Delivery, distribution, and sale of useable marijuana  
6 or marijuana-infused products to a marijuana retailer validly  
7 licensed under chapter 3, Laws of 2013.

8        **Sec. 3.** RCW 69.50.366 and 2013 c 3 s 17 are each amended to read  
9 as follows:

10        The following acts, when performed by a validly licensed  
11 marijuana producer or employee of a validly licensed marijuana  
12 producer in compliance with rules adopted by the state liquor control  
13 board to implement and enforce chapter 3, Laws of 2013, shall not  
14 constitute criminal or civil offenses under Washington state law:

15        (1) Production or possession of quantities of marijuana that do  
16 not exceed the maximum amounts established by the state liquor  
17 control board under RCW 69.50.345(3); ~~((and))~~

18        (2) Delivery, distribution, and sale of marijuana to a marijuana  
19 processor or another marijuana producer validly licensed under  
20 chapter 3, Laws of 2013; and

21        (3) Purchase and possession of marijuana obtained at auction  
22 pursuant to section 1 of this act.

23        **Sec. 4.** RCW 69.50.325 and 2014 c 192 s 2 are each amended to  
24 read as follows:

25        (1)(a) There shall be a marijuana producer's license to produce  
26 marijuana for sale at wholesale to marijuana processors and other  
27 marijuana producers, regulated by the state liquor control board and  
28 subject to annual renewal. The production, possession, delivery,  
29 distribution, and sale of marijuana in accordance with the provisions  
30 of chapter 3, Laws of 2013 and the rules adopted to implement and  
31 enforce it, by a validly licensed marijuana producer, shall not be a  
32 criminal or civil offense under Washington state law. Every marijuana  
33 producer's license shall be issued in the name of the applicant,  
34 shall specify the location at which the marijuana producer intends to  
35 operate, which must be within the state of Washington, and the holder  
36 thereof shall not allow any other person to use the license. The  
37 application fee for a marijuana producer's license shall be two  
38 hundred fifty dollars. The annual fee for issuance and renewal of a

1 marijuana producer's license shall be one thousand dollars. A  
2 separate license shall be required for each location at which a  
3 marijuana producer intends to produce marijuana.

4 (b) A producer licensed under (a) of this subsection may lawfully  
5 possess, deliver, and distribute marijuana purchased by the producer  
6 at an auction authorized under section 1 of this act.

7 (2)(a) There shall be a marijuana processor's license to process,  
8 package, and label marijuana concentrates, useable marijuana, and  
9 marijuana-infused products for sale at wholesale to marijuana  
10 processors and marijuana retailers, regulated by the state liquor  
11 control board and subject to annual renewal. The processing,  
12 packaging, possession, delivery, distribution, and sale of marijuana,  
13 useable marijuana, marijuana-infused products, and marijuana  
14 concentrates in accordance with the provisions of chapter 3, Laws of  
15 2013 and the rules adopted to implement and enforce it, by a validly  
16 licensed marijuana processor, shall not be a criminal or civil  
17 offense under Washington state law. Every marijuana processor's  
18 license shall be issued in the name of the applicant, shall specify  
19 the location at which the licensee intends to operate, which must be  
20 within the state of Washington, and the holder thereof shall not  
21 allow any other person to use the license. The application fee for a  
22 marijuana processor's license shall be two hundred fifty dollars. The  
23 annual fee for issuance and renewal of a marijuana processor's  
24 license shall be one thousand dollars. A separate license shall be  
25 required for each location at which a marijuana processor intends to  
26 process marijuana.

27 (b) A processor licensed under (a) of this subsection may  
28 lawfully possess, process, package, deliver, and distribute  
29 marijuana, marijuana concentrates, and marijuana-infused products  
30 purchased by the processor at an auction authorized under section 1  
31 of this act.

32 (3) There shall be a marijuana retailer's license to sell  
33 marijuana concentrates, useable marijuana, and marijuana-infused  
34 products at retail in retail outlets, regulated by the state liquor  
35 control board and subject to annual renewal. The possession,  
36 delivery, distribution, and sale of marijuana concentrates, useable  
37 marijuana, and marijuana-infused products in accordance with the  
38 provisions of chapter 3, Laws of 2013 and the rules adopted to  
39 implement and enforce it, by a validly licensed marijuana retailer,  
40 shall not be a criminal or civil offense under Washington state law.

1 Every marijuana retailer's license shall be issued in the name of the  
2 applicant, shall specify the location of the retail outlet the  
3 licensee intends to operate, which must be within the state of  
4 Washington, and the holder thereof shall not allow any other person  
5 to use the license. The application fee for a marijuana retailer's  
6 license shall be two hundred fifty dollars. The annual fee for  
7 issuance and renewal of a marijuana retailer's license shall be one  
8 thousand dollars. A separate license shall be required for each  
9 location at which a marijuana retailer intends to sell marijuana  
10 concentrates, useable marijuana, and marijuana-infused products.

11 **Sec. 5.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read  
12 as follows:

13 (1) The following are subject to seizure and forfeiture and no  
14 property right exists in them:

15 (a) All controlled substances which have been manufactured,  
16 distributed, dispensed, acquired, or possessed in violation of this  
17 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,  
18 as defined in RCW 64.44.010, used or intended to be used in the  
19 manufacture of controlled substances;

20 (b) All raw materials, products, and equipment of any kind which  
21 are used, or intended for use, in manufacturing, compounding,  
22 processing, delivering, importing, or exporting any controlled  
23 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

24 (c) All property which is used, or intended for use, as a  
25 container for property described in (a) or (b) of this subsection;

26 (d) All conveyances, including aircraft, vehicles, or vessels,  
27 which are used, or intended for use, in any manner to facilitate the  
28 sale, delivery, or receipt of property described in (a) or (b) of  
29 this subsection, except that:

30 (i) No conveyance used by any person as a common carrier in the  
31 transaction of business as a common carrier is subject to forfeiture  
32 under this section unless it appears that the owner or other person  
33 in charge of the conveyance is a consenting party or privy to a  
34 violation of this chapter or chapter 69.41 or 69.52 RCW;

35 (ii) No conveyance is subject to forfeiture under this section by  
36 reason of any act or omission established by the owner thereof to  
37 have been committed or omitted without the owner's knowledge or  
38 consent;

1 (iii) No conveyance is subject to forfeiture under this section  
2 if used in the receipt of only an amount of marijuana for which  
3 possession constitutes a misdemeanor under RCW 69.50.4014;

4 (iv) A forfeiture of a conveyance encumbered by a bona fide  
5 security interest is subject to the interest of the secured party if  
6 the secured party neither had knowledge of nor consented to the act  
7 or omission; and

8 (v) When the owner of a conveyance has been arrested under this  
9 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the  
10 person is arrested may not be subject to forfeiture unless it is  
11 seized or process is issued for its seizure within ten days of the  
12 owner's arrest;

13 (e) All books, records, and research products and materials,  
14 including formulas, microfilm, tapes, and data which are used, or  
15 intended for use, in violation of this chapter or chapter 69.41 or  
16 69.52 RCW;

17 (f) All drug paraphernalia(~~(21)~~) other than paraphernalia  
18 possessed, sold, or used solely to facilitate marijuana-related  
19 activities that are not violations of this chapter;

20 (g) All moneys, negotiable instruments, securities, or other  
21 tangible or intangible property of value furnished or intended to be  
22 furnished by any person in exchange for a controlled substance in  
23 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible  
24 or intangible personal property, proceeds, or assets acquired in  
25 whole or in part with proceeds traceable to an exchange or series of  
26 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
27 and all moneys, negotiable instruments, and securities used or  
28 intended to be used to facilitate any violation of this chapter or  
29 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable  
30 instruments, securities, or other tangible or intangible property  
31 encumbered by a bona fide security interest is subject to the  
32 interest of the secured party if, at the time the security interest  
33 was created, the secured party neither had knowledge of nor consented  
34 to the act or omission. No personal property may be forfeited under  
35 this subsection (1)(g), to the extent of the interest of an owner, by  
36 reason of any act or omission which that owner establishes was  
37 committed or omitted without the owner's knowledge or consent; and

38 (h) All real property, including any right, title, and interest  
39 in the whole of any lot or tract of land, and any appurtenances or  
40 improvements which are being used with the knowledge of the owner for

1 the manufacturing, compounding, processing, delivery, importing, or  
2 exporting of any controlled substance, or which have been acquired in  
3 whole or in part with proceeds traceable to an exchange or series of  
4 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,  
5 if such activity is not less than a class C felony and a substantial  
6 nexus exists between the commercial production or sale of the  
7 controlled substance and the real property. However:

8 (i) No property may be forfeited pursuant to this subsection  
9 (1)(h), to the extent of the interest of an owner, by reason of any  
10 act or omission committed or omitted without the owner's knowledge or  
11 consent;

12 (ii) The bona fide gift of a controlled substance, legend drug,  
13 or imitation controlled substance shall not result in the forfeiture  
14 of real property;

15 (iii) The possession of marijuana shall not result in the  
16 forfeiture of real property unless the marijuana is possessed for  
17 commercial purposes that are unlawful under Washington state law, the  
18 amount possessed is five or more plants or one pound or more of  
19 marijuana, and a substantial nexus exists between the possession of  
20 marijuana and the real property. In such a case, the intent of the  
21 offender shall be determined by the preponderance of the evidence,  
22 including the offender's prior criminal history, the amount of  
23 marijuana possessed by the offender, the sophistication of the  
24 activity or equipment used by the offender, whether the offender was  
25 licensed to produce, process, or sell marijuana, or was an employee  
26 of a licensed producer, processor, or retailer, and other evidence  
27 which demonstrates the offender's intent to engage in unlawful  
28 commercial activity;

29 (iv) The unlawful sale of marijuana or a legend drug shall not  
30 result in the forfeiture of real property unless the sale was forty  
31 grams or more in the case of marijuana or one hundred dollars or more  
32 in the case of a legend drug, and a substantial nexus exists between  
33 the unlawful sale and the real property; and

34 (v) A forfeiture of real property encumbered by a bona fide  
35 security interest is subject to the interest of the secured party if  
36 the secured party, at the time the security interest was created,  
37 neither had knowledge of nor consented to the act or omission.

38 (2) Real or personal property subject to forfeiture under this  
39 chapter may be seized by any (~~board~~) commission inspector or law  
40 enforcement officer of this state upon process issued by any superior



1 court having jurisdiction over the property. Seizure of real property  
2 shall include the filing of a lis pendens by the seizing agency. Real  
3 property seized under this section shall not be transferred or  
4 otherwise conveyed until ninety days after seizure or until a  
5 judgment of forfeiture is entered, whichever is later: PROVIDED, That  
6 real property seized under this section may be transferred or  
7 conveyed to any person or entity who acquires title by foreclosure or  
8 deed in lieu of foreclosure of a security interest. Seizure of  
9 personal property without process may be made if:

10 (a) The seizure is incident to an arrest or a search under a  
11 search warrant or an inspection under an administrative inspection  
12 warrant;

13 (b) The property subject to seizure has been the subject of a  
14 prior judgment in favor of the state in a criminal injunction or  
15 forfeiture proceeding based upon this chapter;

16 (c) A (~~board~~) commission inspector or law enforcement officer  
17 has probable cause to believe that the property is directly or  
18 indirectly dangerous to health or safety; or

19 (d) The (~~board~~) commission inspector or law enforcement officer  
20 has probable cause to believe that the property was used or is  
21 intended to be used in violation of this chapter.

22 (3) In the event of seizure pursuant to subsection (2) of this  
23 section, proceedings for forfeiture shall be deemed commenced by the  
24 seizure. The law enforcement agency under whose authority the seizure  
25 was made shall cause notice to be served within fifteen days  
26 following the seizure on the owner of the property seized and the  
27 person in charge thereof and any person having any known right or  
28 interest therein, including any community property interest, of the  
29 seizure and intended forfeiture of the seized property. Service of  
30 notice of seizure of real property shall be made according to the  
31 rules of civil procedure. However, the state may not obtain a default  
32 judgment with respect to real property against a party who is served  
33 by substituted service absent an affidavit stating that a good faith  
34 effort has been made to ascertain if the defaulted party is  
35 incarcerated within the state, and that there is no present basis to  
36 believe that the party is incarcerated within the state. Notice of  
37 seizure in the case of property subject to a security interest that  
38 has been perfected by filing a financing statement in accordance with  
39 chapter 62A.9A RCW, or a certificate of title, shall be made by  
40 service upon the secured party or the secured party's assignee at the

1 address shown on the financing statement or the certificate of title.  
2 The notice of seizure in other cases may be served by any method  
3 authorized by law or court rule including but not limited to service  
4 by certified mail with return receipt requested. Service by mail  
5 shall be deemed complete upon mailing within the fifteen day period  
6 following the seizure.

7 (4) If no person notifies the seizing law enforcement agency in  
8 writing of the person's claim of ownership or right to possession of  
9 items specified in subsection (1)(d), (g), or (h) of this section  
10 within forty-five days of the service of notice from the seizing  
11 agency in the case of personal property and ninety days in the case  
12 of real property, the item seized shall be deemed forfeited. The  
13 community property interest in real property of a person whose spouse  
14 or domestic partner committed a violation giving rise to seizure of  
15 the real property may not be forfeited if the person did not  
16 participate in the violation.

17 (5) If any person notifies the seizing law enforcement agency in  
18 writing of the person's claim of ownership or right to possession of  
19 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)  
20 of this section within forty-five days of the service of notice from  
21 the seizing agency in the case of personal property and ninety days  
22 in the case of real property, the person or persons shall be afforded  
23 a reasonable opportunity to be heard as to the claim or right. The  
24 notice of claim may be served by any method authorized by law or  
25 court rule including, but not limited to, service by first-class  
26 mail. Service by mail shall be deemed complete upon mailing within  
27 the forty-five day period following service of the notice of seizure  
28 in the case of personal property and within the ninety-day period  
29 following service of the notice of seizure in the case of real  
30 property. The hearing shall be before the chief law enforcement  
31 officer of the seizing agency or the chief law enforcement officer's  
32 designee, except where the seizing agency is a state agency as  
33 defined in RCW 34.12.020(4), the hearing shall be before the chief  
34 law enforcement officer of the seizing agency or an administrative  
35 law judge appointed under chapter 34.12 RCW, except that any person  
36 asserting a claim or right may remove the matter to a court of  
37 competent jurisdiction. Removal of any matter involving personal  
38 property may only be accomplished according to the rules of civil  
39 procedure. The person seeking removal of the matter must serve  
40 process against the state, county, political subdivision, or

1 municipality that operates the seizing agency, and any other party of  
2 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-  
3 five days after the person seeking removal has notified the seizing  
4 law enforcement agency of the person's claim of ownership or right to  
5 possession. The court to which the matter is to be removed shall be  
6 the district court when the aggregate value of personal property is  
7 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
8 before the seizing agency and any appeal therefrom shall be under  
9 Title 34 RCW. In all cases, the burden of proof is upon the law  
10 enforcement agency to establish, by a preponderance of the evidence,  
11 that the property is subject to forfeiture.

12 The seizing law enforcement agency shall promptly return the  
13 article or articles to the claimant upon a determination by the  
14 administrative law judge or court that the claimant is the present  
15 lawful owner or is lawfully entitled to possession thereof of items  
16 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of  
17 this section.

18 (6) In any proceeding to forfeit property under this title, where  
19 the claimant substantially prevails, the claimant is entitled to  
20 reasonable attorneys' fees reasonably incurred by the claimant. In  
21 addition, in a court hearing between two or more claimants to the  
22 article or articles involved, the prevailing party is entitled to a  
23 judgment for costs and reasonable attorneys' fees.

24 (7) When property is forfeited under this chapter the (~~board~~)  
25 commission or seizing law enforcement agency may:

26 (a) Retain it for official use or upon application by any law  
27 enforcement agency of this state release such property to such agency  
28 for the exclusive use of enforcing the provisions of this chapter;

29 (b) Sell that which is not required to be destroyed by law and  
30 which is not harmful to the public;

31 (c) Request the appropriate sheriff or director of public safety  
32 to take custody of the property and remove it for disposition in  
33 accordance with law; or

34 (d) Forward it to the drug enforcement administration for  
35 disposition.

36 (8)(a) When property is forfeited, the seizing agency shall keep  
37 a record indicating the identity of the prior owner, if known, a  
38 description of the property, the disposition of the property, the  
39 value of the property at the time of seizure, and the amount of  
40 proceeds realized from disposition of the property.

1 (b) Each seizing agency shall retain records of forfeited  
2 property for at least seven years.

3 (c) Each seizing agency shall file a report including a copy of  
4 the records of forfeited property with the state treasurer each  
5 calendar quarter.

6 (d) The quarterly report need not include a record of forfeited  
7 property that is still being held for use as evidence during the  
8 investigation or prosecution of a case or during the appeal from a  
9 conviction.

10 (9)(a) By January 31st of each year, each seizing agency shall  
11 remit to the state treasurer an amount equal to ten percent of the  
12 net proceeds of any property forfeited during the preceding calendar  
13 year. Money remitted shall be deposited in the state general fund.

14 (b) The net proceeds of forfeited property is the value of the  
15 forfeitable interest in the property after deducting the cost of  
16 satisfying any bona fide security interest to which the property is  
17 subject at the time of seizure; and in the case of sold property,  
18 after deducting the cost of sale, including reasonable fees or  
19 commissions paid to independent selling agents, and the cost of any  
20 valid landlord's claim for damages under subsection (15) of this  
21 section.

22 (c) The value of sold forfeited property is the sale price. The  
23 value of retained forfeited property is the fair market value of the  
24 property at the time of seizure, determined when possible by  
25 reference to an applicable commonly used index, such as the index  
26 used by the department of licensing for valuation of motor vehicles.  
27 A seizing agency may use, but need not use, an independent qualified  
28 appraiser to determine the value of retained property. If an  
29 appraiser is used, the value of the property appraised is net of the  
30 cost of the appraisal. The value of destroyed property and retained  
31 firearms or illegal property is zero.

32 (10) Forfeited property and net proceeds not required to be paid  
33 to the state treasurer shall be retained by the seizing law  
34 enforcement agency exclusively for the expansion and improvement of  
35 controlled substances related law enforcement activity. Money  
36 retained under this section may not be used to supplant preexisting  
37 funding sources.

38 (11)(a) Except as provided in (b) of this subsection, controlled  
39 substances listed in Schedule I, II, III, IV, and V that are  
40 possessed, transferred, sold, or offered for sale in violation of

1 this chapter are contraband and shall be seized and summarily  
2 forfeited to the state. Controlled substances listed in Schedule I,  
3 II, III, IV, and V, which are seized or come into the possession of  
4 the ((board)) commission, the owners of which are unknown, are  
5 contraband and shall be summarily forfeited to the ((board))  
6 commission.

7 (b) Marijuana, marijuana concentrates, and marijuana-infused  
8 products seized by state or local law enforcement agencies for the  
9 purpose of auction pursuant to section 1 of this act are summarily  
10 forfeited to such law enforcement agency.

11 (12)(a) Except as provided in (b) of this subsection, species of  
12 plants from which controlled substances in Schedules I and II may be  
13 derived which have been planted or cultivated in violation of this  
14 chapter, or of which the owners or cultivators are unknown, or which  
15 are wild growths, may be seized and summarily forfeited to the  
16 ((board)) commission.

17 (b) Marijuana plants or plant material seized by state or local  
18 law enforcement agencies for the purpose of auction pursuant to  
19 section 1 of this act are summarily forfeited to such law enforcement  
20 agency.

21 (13) The failure, upon demand by a ((board)) commission inspector  
22 or law enforcement officer, of the person in occupancy or in control  
23 of land or premises upon which the species of plants are growing or  
24 being stored to produce an appropriate registration or proof that he  
25 or she is the holder thereof constitutes authority for the seizure  
26 and forfeiture of the plants.

27 (14) Upon the entry of an order of forfeiture of real property,  
28 the court shall forward a copy of the order to the assessor of the  
29 county in which the property is located. Orders for the forfeiture of  
30 real property shall be entered by the superior court, subject to  
31 court rules. Such an order shall be filed by the seizing agency in  
32 the county auditor's records in the county in which the real property  
33 is located.

34 (15)(a) A landlord may assert a claim against proceeds from the  
35 sale of assets seized and forfeited under subsection (7)(b) of this  
36 section, only if:

37 (i) A law enforcement officer, while acting in his or her  
38 official capacity, directly caused damage to the complaining  
39 landlord's property while executing a search of a tenant's residence;  
40 and

1 (ii) The landlord has applied any funds remaining in the tenant's  
2 deposit, to which the landlord has a right under chapter 59.18 RCW,  
3 to cover the damage directly caused by a law enforcement officer  
4 prior to asserting a claim under the provisions of this section;

5 (A) Only if the funds applied under (a)(ii) of this subsection  
6 are insufficient to satisfy the damage directly caused by a law  
7 enforcement officer, may the landlord seek compensation for the  
8 damage by filing a claim against the governmental entity under whose  
9 authority the law enforcement agency operates within thirty days  
10 after the search;

11 (B) Only if the governmental entity denies or fails to respond to  
12 the landlord's claim within sixty days of the date of filing, may the  
13 landlord collect damages under this subsection by filing within  
14 thirty days of denial or the expiration of the sixty-day period,  
15 whichever occurs first, a claim with the seizing law enforcement  
16 agency. The seizing law enforcement agency must notify the landlord  
17 of the status of the claim by the end of the thirty-day period.  
18 Nothing in this section requires the claim to be paid by the end of  
19 the sixty-day or thirty-day period.

20 (b) For any claim filed under (a)(ii) of this subsection, the law  
21 enforcement agency shall pay the claim unless the agency provides  
22 substantial proof that the landlord either:

23 (i) Knew or consented to actions of the tenant in violation of  
24 this chapter or chapter 69.41 or 69.52 RCW; or

25 (ii) Failed to respond to a notification of the illegal activity,  
26 provided by a law enforcement agency under RCW 59.18.075, within  
27 seven days of receipt of notification of the illegal activity.

28 (16) The landlord's claim for damages under subsection (15) of  
29 this section may not include a claim for loss of business and is  
30 limited to:

31 (a) Damage to tangible property and clean-up costs;

32 (b) The lesser of the cost of repair or fair market value of the  
33 damage directly caused by a law enforcement officer;

34 (c) The proceeds from the sale of the specific tenant's property  
35 seized and forfeited under subsection (7)(b) of this section; and

36 (d) The proceeds available after the seizing law enforcement  
37 agency satisfies any bona fide security interest in the tenant's  
38 property and costs related to sale of the tenant's property as  
39 provided by subsection (9)(b) of this section.

1           (17) Subsections (15) and (16) of this section do not limit any  
2 other rights a landlord may have against a tenant to collect for  
3 damages. However, if a law enforcement agency satisfies a landlord's  
4 claim under subsection (15) of this section, the rights the landlord  
5 has against the tenant for damages directly caused by a law  
6 enforcement officer under the terms of the landlord and tenant's  
7 contract are subrogated to the law enforcement agency.

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