

# HOUSE BILL REPORT

## HB 2280

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### As Reported by House Committee On: Commerce & Gaming

**Title:** An act relating to authorizing that money laundering forfeited proceeds and property be used for improvement of gambling-related law enforcement activities.

**Brief Description:** Authorizing that money laundering forfeited proceeds and property be used for improvement of gambling-related law enforcement activities.

**Sponsors:** Representatives MacEwen, Goodman, Lovick, Kirby, Peterson, Irwin, Thai, Kloba, Kilduff, Klippert, Leavitt and Appleton; by request of Gambling Commission.

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 1/13/20, 1/28/20 [DP].

#### **Brief Summary of Bill**

- Authorizes property that has been seized and forfeited as proceeds traceable to or derived from the crime of money laundering, or certain other felony crimes, to alternatively be disposed of according to the provisions for the disposition of forfeited property under the Gambling Act, and used by the seizing agency for the expansion and improvement of gambling-related law enforcement activity.

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### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** Do pass. Signed by 7 members: Representatives Peterson, Chair; Kloba, Vice Chair; Chambers, Assistant Ranking Minority Member; Blake, Jenkin, Kirby and Vick.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Morgan and Ramel.

**Staff:** Peter Clodfelter (786-7127).

#### **Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

When authorized by statute, a law enforcement agency may seize possession of property for the purpose of forfeiting a person's right to own or possess that property. Generally, civil asset forfeiture is permitted when the property itself is illegal, was used to facilitate a crime, is a proceed of a crime, or was purchased from proceeds traceable to criminal activity.

Civil asset forfeiture is permitted under a variety of statutes, including under the Uniform Controlled Substances Act (UCSA), under the Gambling Act, as well as pursuant to money laundering and other criminal statutes. The seizing agency must comply with specific statutory process requirements, which operate separately from a criminal proceeding.

One of the statutes authorizing civil asset forfeiture permits seizure and forfeiture of proceeds traceable to or derived from specified unlawful activity or a violation of the prohibition against money laundering. The phrase "specified unlawful activity" is defined as an offense committed in Washington that is a class A or B felony under Washington law, an offense that constitutes criminal profiteering under Washington law, an offense committed in another state punishable under that state's laws by more than one year in prison, or an offense punishable under federal law by more than one year in prison.

A person is guilty of the crime of money laundering when the person conducts or attempts to conduct a financial transaction involving the proceeds of specified unlawful activity and: (1) knows the property is proceeds of the unlawful activity; (2) knows the transaction is designed to conceal or disguise the nature, location, source, ownership, or control of the proceeds, and acts recklessly as to whether the property is proceeds of specified unlawful activity; or (3) knows the transaction is designed to avoid a federal transaction reporting requirement.

When property is seized because it is proceeds traceable to or derived from specified unlawful activity or a violation of the prohibition against money laundering, the seizing agency notifies the owner and others who have a known right or interest in the property. An owner or other claimant who submits a timely written claim to the agency is afforded a reasonable opportunity to be heard as to the claim or right. The seizing agency must promptly return property to the claimant upon the direction of an administrative law judge or court. However, when this process results in forfeiture, disposition of forfeited property is made in the same manner as the disposition of property forfeited pursuant to the UCSA.

This process requires the agency to keep a record, for at least seven years, indicating the prior owner's identity, describing the property, the disposition of the property, the value of the property at the time of the seizure, and the amount of proceeds realized from disposition of the property. The seizure and forfeiture process under the UCSA also requires each seizing agency to file a quarterly report with the State Treasurer, including a copy of the records of forfeited property. Additionally, by January 31 of each year, each seizing agency must remit to the State Treasurer an amount equal to 10 percent of the net proceeds of forfeited property during the preceding year. The UCSA provides that forfeited property and net proceeds not required to be paid to the State Treasurer are retained by the seizing agency and used exclusively for the expansion and improvement of controlled substances-related law enforcement activity.

The Gambling Act includes a separate seizure and forfeiture statute applicable to property seized and forfeited in connection with violations of gambling laws. Generally, this process

for seizure and forfeiture of property under the Gambling Act is the same as under other seizure and forfeiture statutes. However, for forfeitures under the Gambling Act, the seizing law enforcement agency is not required to make the quarterly reports or 10 percent remittance to the State Treasurer, and the agency must retain forfeited property and net proceeds exclusively for the expansion and improvement of gambling-related law enforcement activity.

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**Summary of Bill:**

An alternative process is made available for the disposition of forfeited property when the property is proceeds traceable to or derived from the crime of money laundering or certain other felony crimes meeting the existing definition of "specified unlawful activity." Property that is proceeds traceable to or derived from specified unlawful activity or the crime of money laundering, and that has been seized and forfeited, may also be disposed of according to the requirements for the disposition of forfeited property in the Gambling Act, and may be retained by the seizing law enforcement agency and used exclusively for the expansion and improvement of gambling-related law enforcement activity.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This fixes the law so that money laundering forfeited proceeds can be used to support gaming enforcement by law enforcement agencies. Unfortunately, one way people launder money is to hide the money's source through otherwise lawful gambling activities. The Washington State Gambling Commission (Commission) supports the bill and believes it will strengthen Washington's money laundering laws and help combat money laundering at casinos. The Commission sees instances where thousands of dollars from suspected illegal sources are cashed into casino chips and then later exchanged back to cash, in an attempt to launder the money. Despite this all being on video, the Commission was unable to use the money laundering forfeiture statute against the individuals due to the limitation on how forfeited money may be used. The Commission is a law enforcement agency focusing on gaming, and the existing money laundering forfeiture statute requires the use of the money for controlled substances-related law enforcement. The landscape is currently changing for regulated gaming; now is an especially good time to strengthen the law. If authorized gambling activities are ever expanded in Washington, this would be a necessary change to the law. Passing this bill now is both proactive and would help with existing investigations. Expanded gambling in other states, regardless of what Washington does, will also impact Washington. This bill only changes the forfeiture process at the end,

about how forfeited property is used, and does not alter how property is forfeited and does not alter people's existing rights to challenge a forfeiture.

(Opposed) None.

**Persons Testifying:** Representative MacEwen, prime sponsor; David Trujillo and Brian Considine, Washington State Gambling Association.

**Persons Signed In To Testify But Not Testifying:** None.