

SSB 5728 - H COMM AMD  
By Committee on Appropriations

ADOPTED 03/04/2022

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 69.50.505 and 2013 c 3 s 25 are each amended to  
4 read as follows:

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

7 (a) All controlled substances which have been manufactured,  
8 distributed, dispensed, acquired, or possessed in violation of this  
9 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,  
10 as defined in RCW 64.44.010, used or intended to be used in the  
11 manufacture of controlled substances;

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

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

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

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

27 (ii) No conveyance is subject to forfeiture under this section by  
28 reason of any act or omission established by the owner thereof to  
29 have been committed or omitted without the owner's knowledge or  
30 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~~<sup>21</sup>) paraphernalia other than  
18 paraphernalia possessed, sold, or used solely to facilitate  
19 marijuana-related 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  
12 the net proceeds of any property forfeited during the preceding  
13 calendar year for deposit into the behavioral health loan repayment  
14 program account created in RCW 28B.115.135 through June 30, 2027, and  
15 into the state general fund thereafter. (~~(Money remitted shall be~~  
16 ~~deposited in the state general fund.)~~)

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

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

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

1 (11) Controlled substances listed in Schedule I, II, III, IV, and  
2 V that are possessed, transferred, sold, or offered for sale in  
3 violation of this chapter are contraband and shall be seized and  
4 summarily forfeited to the state. Controlled substances listed in  
5 Schedule I, II, III, IV, and V, which are seized or come into the  
6 possession of the ((board)) commission, the owners of which are  
7 unknown, are contraband and shall be summarily forfeited to the  
8 ((board)) commission.

9 (12) Species of plants from which controlled substances in  
10 Schedules I and II may be derived which have been planted or  
11 cultivated in violation of this chapter, or of which the owners or  
12 cultivators are unknown, or which are wild growths, may be seized and  
13 summarily forfeited to the ((board)) commission.

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

20 (14) Upon the entry of an order of forfeiture of real property,  
21 the court shall forward a copy of the order to the assessor of the  
22 county in which the property is located. Orders for the forfeiture of  
23 real property shall be entered by the superior court, subject to  
24 court rules. Such an order shall be filed by the seizing agency in  
25 the county auditor's records in the county in which the real property  
26 is located.

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

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

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

38 (A) Only if the funds applied under (a)(ii) of this subsection  
39 are insufficient to satisfy the damage directly caused by a law  
40 enforcement officer, may the landlord seek compensation for the



1 damage by filing a claim against the governmental entity under whose  
2 authority the law enforcement agency operates within thirty days  
3 after the search;

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

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

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

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

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

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

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

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

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

33 (17) Subsections (15) and (16) of this section do not limit any  
34 other rights a landlord may have against a tenant to collect for  
35 damages. However, if a law enforcement agency satisfies a landlord's  
36 claim under subsection (15) of this section, the rights the landlord  
37 has against the tenant for damages directly caused by a law  
38 enforcement officer under the terms of the landlord and tenant's  
39 contract are subrogated to the law enforcement agency.

1           **Sec. 2.** RCW 46.61.5058 and 2013 2nd sp.s. c 35 s 18 are each  
2 amended to read as follows:

3           (1) Upon the arrest of a person or upon the filing of a  
4 complaint, citation, or information in a court of competent  
5 jurisdiction, based upon probable cause to believe that a person has  
6 violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar  
7 municipal ordinance, if such person has a prior offense within seven  
8 years as defined in RCW 46.61.5055, and where the person has been  
9 provided written notice that any transfer, sale, or encumbrance of  
10 such person's interest in the vehicle over which that person was  
11 actually driving or had physical control when the violation occurred,  
12 is unlawful pending either acquittal, dismissal, sixty days after  
13 conviction, or other termination of the charge, such person shall be  
14 prohibited from encumbering, selling, or transferring his or her  
15 interest in such vehicle, except as otherwise provided in (a), (b),  
16 and (c) of this subsection, until either acquittal, dismissal, sixty  
17 days after conviction, or other termination of the charge. The  
18 prohibition against transfer of title shall not be stayed pending the  
19 determination of an appeal from the conviction.

20           (a) A vehicle encumbered by a bona fide security interest may be  
21 transferred to the secured party or to a person designated by the  
22 secured party;

23           (b) A leased or rented vehicle may be transferred to the lessor,  
24 rental agency, or to a person designated by the lessor or rental  
25 agency; and

26           (c) A vehicle may be transferred to a third party or a vehicle  
27 dealer who is a bona fide purchaser or may be subject to a bona fide  
28 security interest in the vehicle unless it is established that (i) in  
29 the case of a purchase by a third party or vehicle dealer, such party  
30 or dealer had actual notice that the vehicle was subject to the  
31 prohibition prior to the purchase, or (ii) in the case of a security  
32 interest, the holder of the security interest had actual notice that  
33 the vehicle was subject to the prohibition prior to the encumbrance  
34 of title.

35           (2) On conviction for a violation of either RCW 46.20.740,  
36 46.61.502, or 46.61.504 or any similar municipal ordinance where the  
37 person convicted has a prior offense within seven years as defined in  
38 RCW 46.61.5055, the motor vehicle the person was driving or over  
39 which the person had actual physical control at the time of the  
40 offense, if the person has a financial interest in the vehicle, the

1 court shall consider at sentencing whether the vehicle shall be  
2 seized and forfeited pursuant to this section if a seizure or  
3 forfeiture has not yet occurred.

4 (3) A vehicle subject to forfeiture under this chapter may be  
5 seized by a law enforcement officer of this state upon process issued  
6 by a court of competent jurisdiction. Seizure of a vehicle may be  
7 made without process if the vehicle subject to seizure has been the  
8 subject of a prior judgment in favor of the state in a forfeiture  
9 proceeding based upon this section.

10 (4) Seizure under subsection (3) of this section automatically  
11 commences proceedings for forfeiture. The law enforcement agency  
12 under whose authority the seizure was made shall cause notice of the  
13 seizure and intended forfeiture of the seized vehicle to be served  
14 within fifteen days after the seizure on the owner of the vehicle  
15 seized, on the person in charge of the vehicle, and on any person  
16 having a known right or interest in the vehicle, including a  
17 community property interest. The notice of seizure may be served by  
18 any method authorized by law or court rule, including but not limited  
19 to service by certified mail with return receipt requested. Service  
20 by mail is complete upon mailing within the fifteen-day period after  
21 the seizure. Notice of seizure in the case of property subject to a  
22 security interest that has been perfected on a certificate of title  
23 shall be made by service upon the secured party or the secured  
24 party's assignee at the address shown on the financing statement or  
25 the certificate of title.

26 (5) If no person notifies the seizing law enforcement agency in  
27 writing of the person's claim of ownership or right to possession of  
28 the seized vehicle within forty-five days of the seizure, the vehicle  
29 is deemed forfeited.

30 (6) If a person notifies the seizing law enforcement agency in  
31 writing of the person's claim of ownership or right to possession of  
32 the seized vehicle within forty-five days of the seizure, the law  
33 enforcement agency shall give the person or persons a reasonable  
34 opportunity to be heard as to the claim or right. The hearing shall  
35 be before the chief law enforcement officer of the seizing agency or  
36 the chief law enforcement officer's designee, except where the  
37 seizing agency is a state agency as defined in RCW 34.12.020, the  
38 hearing shall be before the chief law enforcement officer of the  
39 seizing agency or an administrative law judge appointed under chapter  
40 34.12 RCW, except that any person asserting a claim or right may

1 remove the matter to a court of competent jurisdiction. Removal may  
2 only be accomplished according to the rules of civil procedure. The  
3 person seeking removal of the matter must serve process against the  
4 state, county, political subdivision, or municipality that operates  
5 the seizing agency, and any other party of interest, in accordance  
6 with RCW 4.28.080 or 4.92.020, within forty-five days after the  
7 person seeking removal has notified the seizing law enforcement  
8 agency of the person's claim of ownership or right to possession. The  
9 court to which the matter is to be removed shall be the district  
10 court when the aggregate value of the vehicle is within the  
11 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
12 seizing agency and any appeal therefrom shall be under Title 34 RCW.  
13 In a court hearing between two or more claimants to the vehicle  
14 involved, the prevailing party shall be entitled to a judgment for  
15 costs and reasonable attorneys' fees. The burden of producing  
16 evidence shall be upon the person claiming to be the legal owner or  
17 the person claiming to have the lawful right to possession of the  
18 vehicle. The seizing law enforcement agency shall promptly return the  
19 vehicle to the claimant upon a determination by the administrative  
20 law judge or court that the claimant is the present legal owner under  
21 this title or is lawfully entitled to possession of the vehicle.

22 (7) When a vehicle is forfeited under this chapter the seizing  
23 law enforcement agency may sell the vehicle, retain it for official  
24 use, or upon application by a law enforcement agency of this state  
25 release the vehicle to that agency for the exclusive use of enforcing  
26 this title; provided, however, that the agency shall first satisfy  
27 any bona fide security interest to which the vehicle is subject under  
28 subsection (1)(a) or (c) of this section.

29 (8) When a vehicle is forfeited, the seizing agency shall keep a  
30 record indicating the identity of the prior owner, if known, a  
31 description of the vehicle, the disposition of the vehicle, the value  
32 of the vehicle at the time of seizure, and the amount of proceeds  
33 realized from disposition of the vehicle.

34 (9) Each seizing agency shall retain records of forfeited  
35 vehicles for at least seven years.

36 (10) Each seizing agency shall file a report including a copy of  
37 the records of forfeited vehicles with the state treasurer each  
38 calendar quarter.

39 (11) The quarterly report need not include a record of a  
40 forfeited vehicle that is still being held for use as evidence during

1 the investigation or prosecution of a case or during the appeal from  
2 a conviction.

3 (12) By January 31st of each year, each seizing agency shall  
4 remit to the state (~~(treasurer)~~) an amount equal to ten percent of  
5 the net proceeds of vehicles forfeited during the preceding calendar  
6 year (~~(. Money remitted shall be deposited in the state general fund)~~)  
7 for deposit into the behavioral health loan repayment program account  
8 created in RCW 28B.115.135 through June 30, 2027, and into the state  
9 general fund thereafter.

10 (13) The net proceeds of a forfeited vehicle is the value of the  
11 forfeitable interest in the vehicle after deducting the cost of  
12 satisfying a bona fide security interest to which the vehicle is  
13 subject at the time of seizure; and in the case of a sold vehicle,  
14 after deducting the cost of sale, including reasonable fees or  
15 commissions paid to independent selling agents.

16 (14) The value of a sold forfeited vehicle is the sale price. The  
17 value of a retained forfeited vehicle is the fair market value of the  
18 vehicle at the time of seizure, determined when possible by reference  
19 to an applicable commonly used index, such as the index used by the  
20 department of licensing. A seizing agency may, but need not, use an  
21 independent qualified appraiser to determine the value of retained  
22 vehicles. If an appraiser is used, the value of the vehicle appraised  
23 is net of the cost of the appraisal.

24 **Sec. 3.** RCW 10.105.010 and 2009 c 479 s 15 are each amended to  
25 read as follows:

26 (1) The following are subject to seizure and forfeiture and no  
27 property right exists in them: All personal property, including, but  
28 not limited to, any item, object, tool, substance, device, weapon,  
29 machine, vehicle of any kind, money, security, or negotiable  
30 instrument, which has been or was actually employed as an  
31 instrumentality in the commission of, or in aiding or abetting in the  
32 commission of any felony, or which was furnished or was intended to  
33 be furnished by any person in the commission of, as a result of, or  
34 as compensation for the commission of, any felony, or which was  
35 acquired in whole or in part with proceeds traceable to the  
36 commission of a felony. No property may be forfeited under this  
37 section until after there has been a superior court conviction of the  
38 owner of the property for the felony in connection with which the  
39 property was employed, furnished, or acquired.

1 A forfeiture of property encumbered by a bona fide security  
2 interest is subject to the interest of the secured party if at the  
3 time the security interest was created, the secured party neither had  
4 knowledge of nor consented to the commission of the felony.

5 (2) Personal property subject to forfeiture under this chapter  
6 may be seized by any law enforcement officer of this state upon  
7 process issued by any superior court having jurisdiction over the  
8 property. Seizure of personal property without process may be made  
9 if:

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

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

15 (c) A law enforcement officer has probable cause to believe that  
16 the property is directly dangerous to health or safety; or

17 (d) The law enforcement officer has probable cause to believe  
18 that the property was used or is intended to be used in the  
19 commission of a felony.

20 (3) In the event of seizure pursuant to this section, proceedings  
21 for forfeiture shall be deemed commenced by the seizure. The law  
22 enforcement agency under whose authority the seizure was made shall  
23 cause notice to be served within fifteen days following the seizure  
24 on the owner of the property seized and the person in charge thereof  
25 and any person having any known right or interest therein, including  
26 any community property interest, of the seizure and intended  
27 forfeiture of the seized property. The notice of seizure may be  
28 served by any method authorized by law or court rule including but  
29 not limited to service by certified mail with return receipt  
30 requested. Service by mail shall be deemed complete upon mailing  
31 within the fifteen day period following the seizure. Notice of  
32 seizure in the case of property subject to a security interest that  
33 has been perfected by filing a financing statement in accordance with  
34 chapter 62A.9A RCW, or a certificate of title shall be made by  
35 service upon the secured party or the secured party's assignee at the  
36 address shown on the financing statement or the certificate of title.

37 (4) If no person notifies the seizing law enforcement agency in  
38 writing of the person's claim of ownership or right to possession of  
39 items specified in subsection (1) of this section within forty-five  
40 days of the seizure, the item seized shall be deemed forfeited.

1 (5) If a person notifies the seizing law enforcement agency in  
2 writing of the person's claim of ownership or right to possession of  
3 the seized property within forty-five days of the seizure, the law  
4 enforcement agency shall give the person or persons a reasonable  
5 opportunity to be heard as to the claim or right. The hearing shall  
6 be before the chief law enforcement officer of the seizing agency or  
7 the chief law enforcement officer's designee, except where the  
8 seizing agency is a state agency as defined in RCW 34.12.020(4), the  
9 hearing shall be before the chief law enforcement officer of the  
10 seizing agency or an administrative law judge appointed under chapter  
11 34.12 RCW, except that any person asserting a claim or right may  
12 remove the matter to a court of competent jurisdiction. Removal may  
13 only be accomplished according to the rules of civil procedure. The  
14 person seeking removal of the matter must serve process against the  
15 state, county, political subdivision, or municipality that operates  
16 the seizing agency, and any other party of interest, in accordance  
17 with RCW 4.28.080 or 4.92.020, within forty-five days after the  
18 person seeking removal has notified the seizing law enforcement  
19 agency of the person's claim of ownership or right to possession. The  
20 court to which the matter is to be removed shall be the district  
21 court when the aggregate value of the property is within the  
22 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
23 seizing agency and any appeal therefrom shall be under Title 34 RCW.  
24 In a court hearing between two or more claimants to the property  
25 involved, the prevailing party shall be entitled to a judgment for  
26 costs and reasonable attorney's fees. The burden of producing  
27 evidence shall be upon the person claiming to be the lawful owner or  
28 the person claiming to have the lawful right to possession of the  
29 property. The seizing law enforcement agency shall promptly return  
30 the property to the claimant upon a determination by the  
31 administrative law judge or court that the claimant is the present  
32 lawful owner or is lawfully entitled to possession of the property.

33 (6) When property is forfeited under this chapter, after  
34 satisfying any court-ordered victim restitution, the seizing law  
35 enforcement agency may:

36 (a) Retain it for official use or upon application by any law  
37 enforcement agency of this state release such property to such agency  
38 for the exclusive use of enforcing the criminal law;

39 (b) Sell that which is not required to be destroyed by law and  
40 which is not harmful to the public.

1 (7) By January 31st of each year, each seizing agency shall remit  
2 to the state (~~(treasurer)~~) an amount equal to ten percent of the net  
3 proceeds of any property forfeited during the preceding calendar  
4 year (~~(. Money remitted shall be deposited in the state general fund)~~)  
5 for deposit into the behavioral health loan repayment program account  
6 created in RCW 28B.115.135 through June 30, 2027, and into the state  
7 general fund thereafter.

8 (a) The net proceeds of forfeited property is the value of the  
9 forfeitable interest in the property after deducting the cost of  
10 satisfying any bona fide security interest to which the property is  
11 subject at the time of seizure; and in the case of sold property,  
12 after deducting the cost of sale, including reasonable fees or  
13 commissions paid to independent selling agents.

14 (b) The value of sold forfeited property is the sale price. The  
15 value of retained forfeited property is the fair market value of the  
16 property at the time of seizure, determined when possible by  
17 reference to an applicable commonly used index, such as the index  
18 used by the department of licensing for valuation of motor vehicles.  
19 A seizing agency may use, but need not use, an independent qualified  
20 appraiser to determine the value of retained property. If an  
21 appraiser is used, the value of the property appraised is net of the  
22 cost of the appraisal. The value of destroyed property and retained  
23 firearms or illegal property is zero.

24 (c) Retained property and net proceeds not required to be  
25 (~~paid~~) remitted to the state (~~(treasurer)~~), or otherwise required  
26 to be spent under this section, shall be retained by the seizing law  
27 enforcement agency exclusively for the expansion and improvement of  
28 law enforcement activity. Money retained under this section may not  
29 be used to supplant preexisting funding sources.

30 **Sec. 4.** RCW 9.68A.120 and 2014 c 188 s 3 are each amended to  
31 read as follows:

32 The following are subject to seizure and forfeiture:

33 (1) All visual or printed matter that depicts a minor engaged in  
34 sexually explicit conduct.

35 (2) All raw materials, equipment, and other tangible personal  
36 property of any kind used or intended to be used to manufacture or  
37 process any visual or printed matter that depicts a minor engaged in  
38 sexually explicit conduct, and all conveyances, including aircraft,  
39 vehicles, or vessels that are used or intended for use to transport,



1 or in any manner to facilitate the transportation of, visual or  
2 printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

3 (a) No conveyance used by any person as a common carrier in the  
4 transaction of business as a common carrier is subject to forfeiture  
5 under this section unless it appears that the owner or other person  
6 in charge of the conveyance is a consenting party or privy to a  
7 violation of this chapter;

8 (b) No property is subject to forfeiture under this section by  
9 reason of any act or omission established by the owner of the  
10 property to have been committed or omitted without the owner's  
11 knowledge or consent;

12 (c) A forfeiture of property encumbered by a bona fide security  
13 interest is subject to the interest of the secured party if the  
14 secured party neither had knowledge of nor consented to the act or  
15 omission; and

16 (d) When the owner of a conveyance has been arrested under this  
17 chapter the conveyance may not be subject to forfeiture unless it is  
18 seized or process is issued for its seizure within ten days of the  
19 owner's arrest.

20 (3) All personal property, moneys, negotiable instruments,  
21 securities, or other tangible or intangible property furnished or  
22 intended to be furnished by any person in exchange for visual or  
23 printed matter depicting a minor engaged in sexually explicit  
24 conduct, or constituting proceeds traceable to any violation of this  
25 chapter.

26 (4) Property subject to forfeiture under this chapter may be  
27 seized by any law enforcement officer of this state upon process  
28 issued by any superior court having jurisdiction over the property.  
29 Seizure without process may be made if:

30 (a) The seizure is incident to an arrest or a search under a  
31 search warrant or an inspection under an administrative inspection  
32 warrant;

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

36 (c) A law enforcement officer has probable cause to believe that  
37 the property is directly or indirectly dangerous to health or safety;  
38 or

1 (d) The law enforcement officer has probable cause to believe  
2 that the property was used or is intended to be used in violation of  
3 this chapter.

4 (5) In the event of seizure under subsection (4) of this section,  
5 proceedings for forfeiture shall be deemed commenced by the seizure.  
6 The law enforcement agency under whose authority the seizure was made  
7 shall cause notice to be served within fifteen days following the  
8 seizure on the owner of the property seized and the person in charge  
9 thereof and any person having any known right or interest therein, of  
10 the seizure and intended forfeiture of the seized property. The  
11 notice may be served by any method authorized by law or court rule  
12 including but not limited to service by certified mail with return  
13 receipt requested. Service by mail shall be deemed complete upon  
14 mailing within the fifteen day period following the seizure.

15 (6) If no person notifies the seizing law enforcement agency in  
16 writing of the person's claim of ownership or right to possession of  
17 seized items within forty-five days of the seizure, the item seized  
18 shall be deemed forfeited.

19 (7) If any person notifies the seizing law enforcement agency in  
20 writing of the person's claim of ownership or right to possession of  
21 seized items within forty-five days of the seizure, the person or  
22 persons shall be afforded a reasonable opportunity to be heard as to  
23 the claim or right. The hearing shall be before an administrative law  
24 judge appointed under chapter 34.12 RCW, except that any person  
25 asserting a claim or right may remove the matter to a court of  
26 competent jurisdiction if the aggregate value of the article or  
27 articles involved is more than five hundred dollars. The hearing  
28 before an administrative law judge and any appeal therefrom shall be  
29 under Title 34 RCW. In a court hearing between two or more claimants  
30 to the article or articles involved, the prevailing party shall be  
31 entitled to a judgment for costs and reasonable attorney's fees. The  
32 burden of producing 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 seized items. The seizing law enforcement agency  
35 shall promptly return the article or articles to the claimant upon a  
36 determination by the administrative law judge or court that the  
37 claimant is lawfully entitled to possession thereof of the seized  
38 items.

39 (8) If property is sought to be forfeited on the ground that it  
40 constitutes proceeds traceable to a violation of this chapter, the

1 seizing law enforcement agency must prove by a preponderance of the  
2 evidence that the property constitutes proceeds traceable to a  
3 violation of this chapter.

4 (9) When property is forfeited under this chapter the seizing law  
5 enforcement agency may:

6 (a) Retain it for official use or upon application by any law  
7 enforcement agency of this state release the property to that agency  
8 for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;

9 (b) Sell that which is not required to be destroyed by law and  
10 which is not harmful to the public; or

11 (c) Request the appropriate sheriff or director of public safety  
12 to take custody of the property and remove it for disposition in  
13 accordance with law.

14 (10)(a) By January 31st of each year, each seizing agency shall  
15 remit to the state (~~(treasurer)~~) an amount equal to ten percent of  
16 the net proceeds of any property forfeited during the preceding  
17 calendar year. Money remitted shall be deposited in the prostitution  
18 prevention and intervention account under RCW 43.63A.740.

19 (b) The net proceeds of forfeited property is the value of the  
20 forfeitable interest in the property after deducting the cost of  
21 satisfying any bona fide security interest to which the property is  
22 subject at the time of seizure; and in the case of sold property,  
23 after deducting the cost of sale, including reasonable fees or  
24 commissions paid to an independent selling agency.

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

33 (11) Forfeited property and net proceeds not required to be  
34 (~~(paid)~~) remitted to the state (~~(treasurer)~~) under this chapter shall  
35 be used for payment of all proper expenses of the investigation  
36 leading to the seizure, including any money delivered to the subject  
37 of the investigation by the law enforcement agency, and of the  
38 proceedings for forfeiture and sale, including expenses of seizure,  
39 maintenance of custody, advertising, actual costs of the prosecuting  
40 or city attorney, and court costs. Money remaining after payment of

1 these expenses shall be retained by the seizing law enforcement  
2 agency for the exclusive use of enforcing the provisions of this  
3 chapter or chapter 9A.88 RCW.

4 **Sec. 5.** RCW 9A.88.150 and 2014 c 188 s 4 are each amended to  
5 read as follows:

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

8 (a) Any property or other interest acquired or maintained in  
9 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of  
10 the investment of funds, and any appreciation or income attributable  
11 to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or  
12 9A.88.070;

13 (b) All conveyances, including aircraft, vehicles, or vessels,  
14 which are used, or intended for use, in any manner to facilitate a  
15 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

16 (i) No conveyance used by any person as a common carrier in the  
17 transaction of business as a common carrier is subject to forfeiture  
18 under this section unless it appears that the owner or other person  
19 in charge of the conveyance is a consenting party or privy to a  
20 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

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

25 (iii) A forfeiture of a conveyance encumbered by a bona fide  
26 security interest is subject to the interest of the secured party if  
27 the secured party neither had knowledge of nor consented to the act  
28 or omission; and

29 (iv) When the owner of a conveyance has been arrested for a  
30 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance  
31 in which the person is arrested may not be subject to forfeiture  
32 unless it is seized or process is issued for its seizure within ten  
33 days of the owner's arrest;

34 (c) Any property, contractual right, or claim against property  
35 used to influence any enterprise that a person has established,  
36 operated, controlled, conducted, or participated in the conduct of,  
37 in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

38 (d) All proceeds traceable to or derived from an offense defined  
39 in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable

1 instruments, securities, and other things of value significantly used  
2 or intended to be used significantly to facilitate commission of the  
3 offense;

4 (e) All books, records, and research products and materials,  
5 including formulas, microfilm, tapes, and data which are used, or  
6 intended for use, in violation of RCW 9.68A.100, 9.68A.101, or  
7 9A.88.070;

8 (f) All moneys, negotiable instruments, securities, or other  
9 tangible or intangible property of value furnished or intended to be  
10 furnished by any person in exchange for a violation of RCW 9.68A.100,  
11 9.68A.101, or 9A.88.070, all tangible or intangible personal  
12 property, proceeds, or assets acquired in whole or in part with  
13 proceeds traceable to an exchange or series of exchanges in violation  
14 of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable  
15 instruments, and securities used or intended to be used to facilitate  
16 any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture  
17 of money, negotiable instruments, securities, or other tangible or  
18 intangible property encumbered by a bona fide security interest is  
19 subject to the interest of the secured party if, at the time the  
20 security interest was created, the secured party neither had  
21 knowledge of nor consented to the act or omission. No personal  
22 property may be forfeited under this subsection (1)(f), to the extent  
23 of the interest of an owner, by reason of any act or omission, which  
24 that owner establishes was committed or omitted without the owner's  
25 knowledge or consent; and

26 (g) All real property, including any right, title, and interest  
27 in the whole of any lot or tract of land, and any appurtenances or  
28 improvements which are being used with the knowledge of the owner for  
29 a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have  
30 been acquired in whole or in part with proceeds traceable to an  
31 exchange or series of exchanges in violation of RCW 9.68A.100,  
32 9.68A.101, or 9A.88.070, if a substantial nexus exists between the  
33 violation and the real property. However:

34 (i) No property may be forfeited pursuant to this subsection  
35 (1)(g), to the extent of the interest of an owner, by reason of any  
36 act or omission committed or omitted without the owner's knowledge or  
37 consent;

38 (ii) A forfeiture of real property encumbered by a bona fide  
39 security interest is subject to the interest of the secured party if

1 the secured party, at the time the security interest was created,  
2 neither had knowledge of nor consented to the act or omission.

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

15 (a) The seizure is incident to an arrest or a search under a  
16 search warrant;

17 (b) The property subject to seizure has been the subject of a  
18 prior judgment in favor of the state in a criminal injunction or  
19 forfeiture proceeding; or

20 (c) The law enforcement officer has probable cause to believe  
21 that the property was used or is intended to be used in violation of  
22 RCW 9.68A.100, 9.68A.101, or 9A.88.070.

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

1 secured party's assignee at the address shown on the financing  
2 statement or the certificate of title. The notice of seizure in other  
3 cases may be served by any method authorized by law or court rule  
4 including, but not limited to, service by certified mail with return  
5 receipt requested. Service by mail shall be deemed complete upon  
6 mailing within the fifteen day period 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) of this section within forty-five  
10 days of the service of notice from the seizing agency in the case of  
11 personal property and ninety days in the case of real property, the  
12 item seized shall be deemed forfeited. The community property  
13 interest in real property of a person whose spouse or domestic  
14 partner committed a violation giving rise to seizure of the real  
15 property may not be forfeited if the person did not participate in  
16 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) of this section within forty-five  
20 days of the service of notice from the seizing agency in the case of  
21 personal property and ninety days in the case of real property, the  
22 person or persons shall be afforded a reasonable opportunity to be  
23 heard as to the claim or right. The notice of claim may be served by  
24 any method authorized by law or court rule including, but not limited  
25 to, service by first-class mail. Service by mail shall be deemed  
26 complete upon mailing within the forty-five day period following  
27 service of the notice of seizure in the case of personal property and  
28 within the ninety day period following service of the notice of  
29 seizure in the case of real property. The hearing shall be before the  
30 chief law enforcement officer of the seizing agency or the chief law  
31 enforcement officer's designee, except where the seizing agency is a  
32 state agency as defined in RCW 34.12.020(4), the hearing shall be  
33 before the chief law enforcement officer of the seizing agency or an  
34 administrative law judge appointed under chapter 34.12 RCW, except  
35 that any person asserting a claim or right may remove the matter to a  
36 court of competent jurisdiction. Removal of any matter involving  
37 personal property may only be accomplished according to the rules of  
38 civil procedure. The person seeking removal of the matter must serve  
39 process against the state, county, political subdivision, or  
40 municipality that operates the seizing agency, and any other party of

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

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

23 (7) When property is forfeited under this chapter, the seizing  
24 law enforcement agency may:

25 (a) Retain it for official use or upon application by any law  
26 enforcement agency of this state release the property to that agency  
27 for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

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

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

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

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



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

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

8 (9) (a) By January 31st of each year, each seizing agency shall  
9 remit to the state (~~(treasurer)~~) an amount equal to ten percent of  
10 the net proceeds of any property forfeited during the preceding  
11 calendar year. Money remitted shall be deposited in the prostitution  
12 prevention and intervention account under RCW 43.63A.740.

13 (b) The net proceeds of forfeited property is the value of the  
14 forfeitable interest in the property after deducting the cost of  
15 satisfying any bona fide security interest to which the property is  
16 subject at the time of seizure; and in the case of sold property,  
17 after deducting the cost of sale, including reasonable fees or  
18 commissions paid to independent selling agents, and the cost of any  
19 valid landlord's claim for damages under subsection (12) of this  
20 section.

21 (c) The value of sold forfeited property is the sale price. The  
22 value of destroyed property and retained firearms or illegal property  
23 is zero.

24 (10) Net proceeds not required to be (~~(paid)~~) remitted to the  
25 state (~~(treasurer)~~) shall be used for payment of all proper expenses  
26 of the investigation leading to the seizure, including any money  
27 delivered to the subject of the investigation by the law enforcement  
28 agency, and of the proceedings for forfeiture and sale, including  
29 expenses of seizure, maintenance of custody, advertising, actual  
30 costs of the prosecuting or city attorney, and court costs. Money  
31 remaining after payment of these expenses shall be retained by the  
32 seizing law enforcement agency for the exclusive use of enforcing the  
33 provisions of this chapter or chapter 9.68A RCW.

34 (11) Upon the entry of an order of forfeiture of real property,  
35 the court shall forward a copy of the order to the assessor of the  
36 county in which the property is located. Orders for the forfeiture of  
37 real property shall be entered by the superior court, subject to  
38 court rules. Such an order shall be filed by the seizing agency in  
39 the county auditor's records in the county in which the real property  
40 is located.

1 (12) A landlord may assert a claim against proceeds from the sale  
2 of assets seized and forfeited under subsection (9) of this section,  
3 only if:

4 (a) A law enforcement officer, while acting in his or her  
5 official capacity, directly caused damage to the complaining  
6 landlord's property while executing a search of a tenant's residence;

7 (b) The landlord has applied any funds remaining in the tenant's  
8 deposit, to which the landlord has a right under chapter 59.18 RCW,  
9 to cover the damage directly caused by a law enforcement officer  
10 prior to asserting a claim under the provisions of this section:

11 (i) Only if the funds applied under (b) of this subsection are  
12 insufficient to satisfy the damage directly caused by a law  
13 enforcement officer, may the landlord seek compensation for the  
14 damage by filing a claim against the governmental entity under whose  
15 authority the law enforcement agency operates within thirty days  
16 after the search;

17 (ii) Only if the governmental entity denies or fails to respond  
18 to the landlord's claim within sixty days of the date of filing, may  
19 the landlord collect damages under this subsection by filing within  
20 thirty days of denial or the expiration of the sixty day period,  
21 whichever occurs first, a claim with the seizing law enforcement  
22 agency. The seizing law enforcement agency must notify the landlord  
23 of the status of the claim by the end of the thirty day period.  
24 Nothing in this section requires the claim to be paid by the end of  
25 the sixty day or thirty day period; and

26 (c) For any claim filed under (b) of this subsection, the law  
27 enforcement agency shall pay the claim unless the agency provides  
28 substantial proof that the landlord either:

29 (i) Knew or consented to actions of the tenant in violation of  
30 RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

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

34 (13) The landlord's claim for damages under subsection (12) of  
35 this section may not include a claim for loss of business and is  
36 limited to:

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

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

1 (c) The proceeds from the sale of the specific tenant's property  
2 seized and forfeited under subsection (9) of this section; and

3 (d) The proceeds available after the seizing law enforcement  
4 agency satisfies any bona fide security interest in the tenant's  
5 property and costs related to sale of the tenant's property as  
6 provided by subsection (12) of this section.

7 (14) Subsections (12) and (13) of this section do not limit any  
8 other rights a landlord may have against a tenant to collect for  
9 damages. However, if a law enforcement agency satisfies a landlord's  
10 claim under subsection (12) of this section, the rights the landlord  
11 has against the tenant for damages directly caused by a law  
12 enforcement officer under the terms of the landlord and tenant's  
13 contract are subrogated to the law enforcement agency.

14 **Sec. 6.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5  
15 are each reenacted and amended to read as follows:

16 (1) Money in the treasurer's trust fund may be deposited,  
17 invested, and reinvested by the state treasurer in accordance with  
18 RCW 43.84.080 in the same manner and to the same extent as if the  
19 money were in the state treasury, and may be commingled with moneys  
20 in the state treasury for cash management and cash balance purposes.

21 (2) All income received from investment of the treasurer's trust  
22 fund must be set aside in an account in the treasury trust fund to be  
23 known as the investment income account.

24 (3) The investment income account may be utilized for the payment  
25 of purchased banking services on behalf of treasurer's trust funds  
26 including, but not limited to, depository, safekeeping, and  
27 disbursement functions for the state treasurer or affected state  
28 agencies. The investment income account is subject in all respects to  
29 chapter 43.88 RCW, but no appropriation is required for payments to  
30 financial institutions. Payments must occur prior to distribution of  
31 earnings set forth in subsection (4) of this section.

32 (4)(a) Monthly, the state treasurer must distribute the earnings  
33 credited to the investment income account to the state general fund  
34 except under (b), (c), and (d) of this subsection.

35 (b) The following accounts and funds must receive their  
36 proportionate share of earnings based upon each account's or fund's  
37 average daily balance for the period: The 24/7 sobriety account, the  
38 Washington promise scholarship account, the Gina Grant Bull memorial  
39 legislative page scholarship account, the Rosa Franklin legislative

1 internship program scholarship (~~(account)~~) account, the Washington  
2 advanced college tuition payment program account, the Washington  
3 college savings program account, the accessible communities account,  
4 the Washington achieving a better life experience program account,  
5 the community and technical college innovation account, the  
6 agricultural local fund, the American Indian scholarship endowment  
7 fund, the behavioral health loan repayment program account, the  
8 foster care scholarship endowment fund, the foster care endowed  
9 scholarship trust fund, the contract harvesting revolving account,  
10 the Washington state combined fund drive account, the commemorative  
11 works account, the county enhanced 911 excise tax account, the county  
12 road administration board emergency loan account, the toll collection  
13 account, the developmental disabilities endowment trust fund, the  
14 energy account, the fair fund, the family and medical leave insurance  
15 account, the fish and wildlife federal lands revolving account, the  
16 natural resources federal lands revolving account, the food animal  
17 veterinarian conditional scholarship account, the forest health  
18 revolving account, the fruit and vegetable inspection account, the  
19 educator conditional scholarship account, the game farm alternative  
20 account, the GET ready for math and science scholarship account, the  
21 Washington global health technologies and product development  
22 account, the grain inspection revolving fund, the Washington history  
23 day account, the industrial insurance rainy day fund, the juvenile  
24 accountability incentive account, the law enforcement officers' and  
25 firefighters' plan 2 expense fund, the local tourism promotion  
26 account, the low-income home rehabilitation revolving loan program  
27 account, the multiagency permitting team account, the northeast  
28 Washington wolf-livestock management account, the produce railcar  
29 pool account, the public use general aviation airport loan revolving  
30 account, the regional transportation investment district account, the  
31 rural rehabilitation account, the Washington sexual assault kit  
32 account, the stadium and exhibition center account, the youth  
33 athletic facility account, the self-insurance revolving fund, the  
34 children's trust fund, the Washington horse racing commission  
35 Washington bred owners' bonus fund and breeder awards account, the  
36 Washington horse racing commission class C purse fund account, the  
37 individual development account program account, the Washington horse  
38 racing commission operating account, the life sciences discovery  
39 fund, the Washington state library-archives building account, the  
40 reduced cigarette ignition propensity account, the center for deaf

1 and hard of hearing youth account, the school for the blind account,  
2 the Millersylvania park trust fund, the public employees' and  
3 retirees' insurance reserve fund, the school employees' benefits  
4 board insurance reserve fund, the public employees' and retirees'  
5 insurance account, the school employees' insurance account, the long-  
6 term services and supports trust account, the radiation perpetual  
7 maintenance fund, the Indian health improvement reinvestment account,  
8 the department of licensing tuition recovery trust fund, the student  
9 achievement council tuition recovery trust fund, the tuition recovery  
10 trust fund, the industrial insurance premium refund account, the  
11 mobile home park relocation fund, the natural resources deposit fund,  
12 the Washington state health insurance pool account, the federal  
13 forest revolving account, and the library operations account.

14 (c) The following accounts and funds must receive eighty percent  
15 of their proportionate share of earnings based upon each account's or  
16 fund's average daily balance for the period: The advance right-of-way  
17 revolving fund, the advanced environmental mitigation revolving  
18 account, the federal narcotics asset forfeitures account, the high  
19 occupancy vehicle account, the local rail service assistance account,  
20 and the miscellaneous transportation programs account.

21 (d) Any state agency that has independent authority over accounts  
22 or funds not statutorily required to be held in the custody of the  
23 state treasurer that deposits funds into a fund or account in the  
24 custody of the state treasurer pursuant to an agreement with the  
25 office of the state treasurer shall receive its proportionate share  
26 of earnings based upon each account's or fund's average daily balance  
27 for the period.

28 (5) In conformance with Article II, section 37 of the state  
29 Constitution, no trust accounts or funds shall be allocated earnings  
30 without the specific affirmative directive of this section.

31 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2022."

32 Correct the title.

EFFECT: Directs the state's portion of specified civil forfeiture  
revenues into the Behavioral Health Loan Repayment Program Account

through June 30, 2027, and into the State General Fund thereafter.  
Adds an effective date of July 1, 2022.

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