
SENATE BILL 6282

State of Washington

68th Legislature

2024 Regular Session

By Senator Salomon

1 AN ACT Relating to seizure and forfeiture procedures; and
2 reenacting and amending RCW 69.50.505.

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

4 **Sec. 1.** RCW 69.50.505 and 2022 c 162 s 1 and 2022 c 16 s 98 are
5 each reenacted and amended to read as follows:

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

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

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

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

19 (d) All conveyances, including aircraft, vehicles, or vessels,
20 which are used, or intended for use, in any manner to facilitate the

1 sale, delivery, or receipt of property described in (a) or (b) of
2 this subsection, except that:

3 (i) 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 or chapter 69.41 or 69.52 RCW;

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

12 (iii) No conveyance is subject to forfeiture under this section
13 if used in the receipt of only an amount of cannabis for which
14 possession constitutes a misdemeanor under RCW 69.50.4014;

15 (iv) A forfeiture of a conveyance encumbered by a bona fide
16 security interest is subject to the interest of the secured party if
17 the secured party neither had knowledge of nor consented to the act
18 or omission; and

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

24 (e) All books, records, and research products and materials,
25 including formulas, microfilm, tapes, and data which are used, or
26 intended for use, in violation of this chapter or chapter 69.41 or
27 69.52 RCW;

28 (f) All drug paraphernalia other than paraphernalia possessed,
29 sold, or used solely to facilitate cannabis-related activities that
30 are not violations of this chapter;

31 (g) All moneys, negotiable instruments, securities, or other
32 tangible or intangible property of value furnished or intended to be
33 furnished by any person in exchange for a controlled substance in
34 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
35 or intangible personal property, proceeds, or assets acquired in
36 whole or in part with proceeds traceable to an exchange or series of
37 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
38 and all moneys, negotiable instruments, and securities used or
39 intended to be used to facilitate any violation of this chapter or
40 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable

1 instruments, securities, or other tangible or intangible property
2 encumbered by a bona fide security interest is subject to the
3 interest of the secured party if, at the time the security interest
4 was created, the secured party neither had knowledge of nor consented
5 to the act or omission. No personal property may be forfeited under
6 this subsection (1)(g), to the extent of the interest of an owner, by
7 reason of any act or omission which that owner establishes was
8 committed or omitted without the owner's knowledge or consent; and

9 (h) All real property, including any right, title, and interest
10 in the whole of any lot or tract of land, and any appurtenances or
11 improvements which are being used with the knowledge of the owner for
12 the manufacturing, compounding, processing, delivery, importing, or
13 exporting of any controlled substance, or which have been acquired in
14 whole or in part with proceeds traceable to an exchange or series of
15 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
16 if such activity is not less than a class C felony and a substantial
17 nexus exists between the commercial production or sale of the
18 controlled substance and the real property. However:

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

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

26 (iii) The possession of cannabis shall not result in the
27 forfeiture of real property unless the cannabis is possessed for
28 commercial purposes that are unlawful under Washington state law, the
29 amount possessed is five or more plants or one pound or more of
30 cannabis, and a substantial nexus exists between the possession of
31 cannabis and the real property. In such a case, the intent of the
32 offender shall be determined by the preponderance of the evidence,
33 including the offender's prior criminal history, the amount of
34 cannabis possessed by the offender, the sophistication of the
35 activity or equipment used by the offender, whether the offender was
36 licensed to produce, process, or sell cannabis, or was an employee of
37 a licensed producer, processor, or retailer, and other evidence which
38 demonstrates the offender's intent to engage in unlawful commercial
39 activity;

1 (iv) The unlawful sale of cannabis or a legend drug shall not
2 result in the forfeiture of real property unless the sale was
3 (~~forty~~) 40 grams or more in the case of cannabis or (~~one hundred~~
4 ~~dollars~~) \$100 or more in the case of a legend drug, and a
5 substantial nexus exists between the unlawful sale and the real
6 property; and

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

11 (2) Real or personal property subject to forfeiture under this
12 chapter may be seized by any commission inspector or law enforcement
13 officer of this state upon process issued by any superior court
14 having jurisdiction over the property. Seizure of real property shall
15 include the filing of a lis pendens by the seizing agency. Real
16 property seized under this section shall not be transferred or
17 otherwise conveyed until (~~ninety~~) 90 days after seizure or until a
18 judgment of forfeiture is entered, whichever is later: PROVIDED, That
19 real property seized under this section may be transferred or
20 conveyed to any person or entity who acquires title by foreclosure or
21 deed in lieu of foreclosure of a security interest. Seizure of
22 personal property without process may be made if:

23 (a) The seizure is incident to an arrest or a search under a
24 search warrant or an inspection under an administrative inspection
25 warrant;

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

29 (c) A commission inspector or law enforcement officer has
30 probable cause to believe that the property is directly or indirectly
31 dangerous to health or safety; or

32 (d) The commission inspector or law enforcement officer has
33 probable cause to believe that the property was used or is intended
34 to be used in violation of this chapter.

35 (3) In the event of seizure pursuant to subsection (2) of this
36 section, proceedings for forfeiture shall be deemed commenced by the
37 seizure. The law enforcement agency under whose authority the seizure
38 was made shall cause notice to be served within (~~fifteen~~) 15 days
39 following the seizure on the owner of the property seized and the
40 person in charge thereof and any person having any known right or

1 interest therein, including any community property interest, of the
2 seizure and intended forfeiture of the seized property. Service of
3 notice of seizure of real property shall be made according to the
4 rules of civil procedure. However, the state may not obtain a default
5 judgment with respect to real property against a party who is served
6 by substituted service absent an affidavit stating that a good faith
7 effort has been made to ascertain if the defaulted party is
8 incarcerated within the state, and that there is no present basis to
9 believe that the party is incarcerated within the state. Notice of
10 seizure in the case of property subject to a security interest that
11 has been perfected by filing a financing statement in accordance with
12 chapter 62A.9A RCW, or a certificate of title, shall be made by
13 service upon the secured party or the secured party's assignee at the
14 address shown on the financing statement or the certificate of title.
15 The notice of seizure in other cases may be served by any method
16 authorized by law or court rule including but not limited to service
17 by certified mail with return receipt requested. Service by mail
18 shall be deemed complete upon mailing within the (~~fifteen~~) 15-day
19 period following the seizure.

20 (4) If no person notifies the seizing law enforcement agency in
21 writing of the person's claim of ownership or right to possession of
22 items specified in subsection (1)(d), (g), or (h) of this section
23 within (~~forty-five~~) 45 days of the service of notice from the
24 seizing agency in the case of personal property and (~~ninety~~) 90
25 days in the case of real property, the item seized shall be deemed
26 forfeited. The community property interest in real property of a
27 person whose spouse or domestic partner committed a violation giving
28 rise to seizure of the real property may not be forfeited if the
29 person did not participate in the violation.

30 (5) (a) If any person notifies the seizing law enforcement agency
31 in writing of the person's claim of ownership or right to possession
32 of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or
33 (h) of this section within (~~forty-five~~) 45 days of the service of
34 notice from the seizing agency in the case of personal property and
35 (~~ninety~~) 90 days in the case of real property, the person or
36 persons shall be afforded a reasonable opportunity to be heard as to
37 the claim or right. The notice of claim may be served by any method
38 authorized by law or court rule including, but not limited to,
39 service by first-class mail. Service by mail shall be deemed complete
40 upon mailing within the (~~forty-five~~) 45-day period following

1 service of the notice of seizure in the case of personal property and
2 within the (~~ninety-day~~) 90-day period following service of the
3 notice of seizure in the case of real property. The hearing shall be
4 before the chief law enforcement officer of the seizing agency or the
5 chief law enforcement officer's designee, except where the seizing
6 agency is a state agency as defined in RCW 34.12.020(4), the hearing
7 shall be before the chief law enforcement officer of the seizing
8 agency or an administrative law judge appointed under chapter 34.12
9 RCW, except that any person asserting a claim or right may remove the
10 matter to a court of competent jurisdiction. Removal of any matter
11 involving personal property may only be accomplished according to the
12 rules of civil procedure. The person seeking removal of the matter
13 must serve process against the state, county, political subdivision,
14 or municipality that operates the seizing agency, and any other party
15 of interest, in accordance with RCW 4.28.080 or 4.92.020, within
16 (~~forty-five~~) 45 days after the person seeking removal has notified
17 the seizing law enforcement agency of the person's claim of ownership
18 or right to possession. The court to which the matter is to be
19 removed shall be the district court when the aggregate value of
20 personal property is within the jurisdictional limit set forth in RCW
21 3.66.020. A hearing before the seizing agency and any appeal
22 therefrom shall be under Title 34 RCW. In all cases, the burden of
23 proof is upon the law enforcement agency to establish, by a
24 preponderance of the evidence, that the property is subject to
25 forfeiture.

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

32 (6) In any proceeding to forfeit property under this title, where
33 the claimant substantially prevails, the claimant is entitled to
34 reasonable attorneys' fees reasonably incurred by the claimant. In
35 addition, in a court hearing between two or more claimants to the
36 article or articles involved, the prevailing party is entitled to a
37 judgment for costs and reasonable attorneys' fees.

38 (7) When property is forfeited under this chapter the commission
39 or seizing law enforcement agency may:

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

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

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

9 (d) Forward it to the drug enforcement administration for
10 disposition.

11 (8)(a) When property is forfeited, the seizing agency shall keep
12 a record indicating the identity of the prior owner, if known, a
13 description of the property, the disposition of the property, the
14 value of the property at the time of seizure, and the amount of
15 proceeds realized from disposition of the property.

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

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

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

25 (9)(a) By January 31st of each year, each seizing agency shall
26 remit to the state an amount equal to (~~(ten)~~) 10 percent of the net
27 proceeds of any property forfeited during the preceding calendar year
28 for deposit into the behavioral health loan repayment program account
29 created in RCW 28B.115.135 through June 30, 2027, and into the state
30 general fund thereafter.

31 (b) The net proceeds of forfeited property is the value of the
32 forfeitable interest in the property after deducting the cost of
33 satisfying any bona fide security interest to which the property is
34 subject at the time of seizure; and in the case of sold property,
35 after deducting the cost of sale, including reasonable fees or
36 commissions paid to independent selling agents, and the cost of any
37 valid landlord's claim for damages under subsection (15) of this
38 section.

39 (c) The value of sold forfeited property is the sale price. The
40 value of retained forfeited property is the fair market value of the

1 property at the time of seizure, determined when possible by
2 reference to an applicable commonly used index, such as the index
3 used by the department of licensing for valuation of motor vehicles.
4 A seizing agency may use, but need not use, an independent qualified
5 appraiser to determine the value of retained property. If an
6 appraiser is used, the value of the property appraised is net of the
7 cost of the appraisal. The value of destroyed property and retained
8 firearms or illegal property is zero.

9 (10) Forfeited property and net proceeds not required to be
10 remitted to the state shall be retained by the seizing law
11 enforcement agency exclusively for the expansion and improvement of
12 controlled substances related law enforcement activity. If the
13 seizing agency is a port district operating an airport in a county
14 with a population of more than 1,000,000, it may use the net proceeds
15 not required to be remitted to the state for purposes related to
16 controlled substances law enforcement, substance abuse education,
17 human trafficking interdiction, and responsible gun ownership. Money
18 retained under this section may not be used to supplant preexisting
19 funding sources.

20 (11) Controlled substances listed in Schedule I, II, III, IV, and
21 V that are possessed, transferred, sold, or offered for sale in
22 violation of this chapter are contraband and shall be seized and
23 summarily forfeited to the state. Controlled substances listed in
24 Schedule I, II, III, IV, and V, which are seized or come into the
25 possession of the commission, the owners of which are unknown, are
26 contraband and shall be summarily forfeited to the commission.

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

32 (13) The failure, upon demand by a commission inspector or law
33 enforcement officer, of the person in occupancy or in control of land
34 or premises upon which the species of plants are growing or being
35 stored to produce an appropriate registration or proof that he or she
36 is the holder thereof constitutes authority for the seizure and
37 forfeiture of the plants.

38 (14) Upon the entry of an order of forfeiture of real property,
39 the court shall forward a copy of the order to the assessor of the
40 county in which the property is located. Orders for the forfeiture of

1 real property shall be entered by the superior court, subject to
2 court rules. Such an order shall be filed by the seizing agency in
3 the county auditor's records in the county in which the real property
4 is located.

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

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

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

16 (A) Only if the funds applied under (a)(ii) of this subsection
17 are insufficient to satisfy the damage directly caused by a law
18 enforcement officer, may the landlord seek compensation for the
19 damage by filing a claim against the governmental entity under whose
20 authority the law enforcement agency operates within ~~((thirty))~~ 30
21 days after the search;

22 (B) Only if the governmental entity denies or fails to respond to
23 the landlord's claim within ~~((sixty))~~ 60 days of the date of filing,
24 may the landlord collect damages under this subsection by filing
25 within ~~((thirty))~~ 30 days of denial or the expiration of the ~~((sixty-~~
26 ~~day))~~ 60-day period, whichever occurs first, a claim with the seizing
27 law enforcement agency. The seizing law enforcement agency must
28 notify the landlord of the status of the claim by the end of the
29 ~~((thirty-day))~~ 30-day period. Nothing in this section requires the
30 claim to be paid by the end of the ~~((sixty-day or thirty-day))~~ 60-day
31 or 30-day period.

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

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

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

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

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

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

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

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

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

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