
SECOND SUBSTITUTE HOUSE BILL 1440

State of Washington

69th Legislature

2025 Regular Session

By House Transportation (originally sponsored by Representatives Goodman, Hackney, Peterson, and Ormsby)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to seizure and forfeiture procedures and
2 reporting; amending RCW 9.68A.120, 9A.88.150, 9A.83.030, 10.105.010,
3 19.290.230, 46.61.5058, 70.74.400, 77.15.070, and 38.42.020;
4 reenacting and amending RCW 69.50.505; adding a new chapter to Title
5 7 RCW; creating a new section; prescribing penalties; and providing
6 an effective date.

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

8 NEW SECTION. **Sec. 1.** This chapter provides standard procedures
9 governing civil asset forfeiture and is applicable to laws of this
10 state that authorize civil forfeiture of property and that indicate
11 the provisions of this chapter apply.

12 NEW SECTION. **Sec. 2.** (1)(a) Except with respect to contraband
13 items, which shall be seized and summarily forfeited, proceedings for
14 forfeiture are deemed commenced by the seizure. The agency under
15 whose authority the seizure was made shall cause notice to be served
16 within 15 days following the seizure on the owner of the property
17 seized and the person in charge thereof and any person having any
18 known right or interest therein, including any community property
19 interest, of the seizure and intended forfeiture of the seized
20 property. Service of notice of seizure must be made according to the

1 rules of civil procedure, except that service by mail shall be by
2 certified mail, return receipt requested. However, a default judgment
3 with respect to real property may not be obtained against a party who
4 is served by substituted service absent an affidavit stating that a
5 good faith effort has been made to ascertain if the defaulted party
6 is incarcerated within the state, and that there is no present basis
7 to believe that the party is incarcerated within the state. Notice of
8 seizure in the case of property subject to a security interest that
9 has been perfected by filing a financing statement in accordance with
10 chapter 62A.9A RCW, or a certificate of title, must be made by
11 service upon the secured party or the secured party's assignee at the
12 address shown on the financing statement or the certificate of title.

13 (b) The notice must include information indicating that if the
14 property owner or other person claiming a right or interest in the
15 property contests the forfeiture, the person has the right to move
16 the matter to a court of competent jurisdiction, and if the person
17 substantially prevails in a forfeiture proceeding, the person is
18 entitled to reimbursement for reasonable attorneys' fees.

19 (2) If no person notifies the seizing agency in writing of the
20 person's claim of ownership or right to possession of an item seized
21 within 60 days of the service of notice from the seizing agency in
22 the case of personal property and 120 days in the case of real
23 property, the item seized is deemed forfeited. The community property
24 interest in real property of a person whose spouse or domestic
25 partner committed a violation giving rise to seizure of the real
26 property may not be forfeited if the person did not participate in
27 the violation.

28 (3) If any person notifies the seizing agency in writing of the
29 person's claim of ownership or right to possession of an item seized
30 within 60 days of the service of notice from the seizing agency in
31 the case of personal property and 120 days in the case of real
32 property, the person or persons must be afforded a reasonable
33 opportunity to be heard as to the claim or right. The notice of claim
34 may be served by any method authorized by law or court rule
35 including, but not limited to, service by first-class mail. Service
36 by mail is deemed complete upon mailing within the 60-day period
37 following service of the notice of seizure in the case of personal
38 property and within the 120-day period following service of the
39 notice of seizure in the case of real property.

1 (4) The hearing must be before the chief law enforcement officer
2 of the seizing agency or the chief law enforcement officer's
3 designee, except that where the seizing agency is a state agency as
4 defined in RCW 34.12.020(4), the hearing must be before the chief law
5 enforcement officer of the seizing agency or an administrative law
6 judge appointed under chapter 34.12 RCW. Such a hearing and any
7 appeal therefrom must be under Title 34 RCW.

8 (5) Any person asserting a claim or right may remove the matter
9 to a court of competent jurisdiction. Removal of any matter involving
10 personal property may only be accomplished according to the rules of
11 civil procedure. The person seeking removal of the matter must serve
12 process against the state, county, political subdivision, or
13 municipality that operates the seizing agency, and any other party of
14 interest, in accordance with RCW 4.28.080 or 4.92.020, within 45 days
15 after the person seeking removal has notified the seizing agency of
16 the person's claim of ownership or right to possession. The court to
17 which the matter is to be removed must be the district court when the
18 aggregate value of personal property is within the jurisdictional
19 limit set forth in RCW 3.66.020.

20 (6) (a) Whether the matter is heard under Title 34 RCW pursuant to
21 subsection (4) of this section or removed to court pursuant to
22 subsection (5) of this section, the burden of proof is upon the
23 seizing agency to establish, by a preponderance of the evidence, that
24 the property is subject to forfeiture.

25 (b) No personal property may be forfeited to the extent of the
26 interest of an owner, by reason of any act or omission committed or
27 omitted without the owner's knowledge or consent;

28 (c) No real property may be forfeited to the extent of the
29 interest of an owner, by reason of any act or omission committed or
30 omitted without the owner's knowledge or consent.

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

35 (7) The seizing agency shall promptly return seized items, in the
36 same or substantially similar condition as when they were seized, to
37 the claimant upon a determination by the administrative law judge or
38 court that the claimant is the present lawful owner or is lawfully
39 entitled to possession thereof.

1 (8) In any proceeding to forfeit property under this chapter,
2 where the claimant substantially prevails, the claimant is entitled
3 to reasonable attorneys' fees reasonably incurred by the claimant.

4 (9) The protections afforded by the service members' civil relief
5 act, chapter 38.42 RCW, are applicable to proceedings under this
6 chapter.

7 NEW SECTION. **Sec. 3.** (1) Upon the entry of an order of
8 forfeiture of real property, the court shall forward a copy of the
9 order to the assessor of the county in which the property is located.
10 Orders for the forfeiture of real property shall be entered by the
11 superior court, subject to court rules. Such an order shall be filed
12 by the seizing agency in the county auditor's records in the county
13 in which the real property is located.

14 (2)(a) A landlord may assert a claim against proceeds from the
15 sale of assets seized and forfeited only if:

16 (i) An employee, agent, or officer of the seizing agency, while
17 acting in his or her official capacity, directly caused damage to the
18 complaining landlord's property while executing a search of a
19 tenant's residence; and

20 (ii) The landlord has applied any funds remaining in the tenant's
21 deposit, to which the landlord has a right under chapter 59.18 RCW,
22 to cover the damage directly caused by the employee, agent, or
23 officer of the seizing agency prior to asserting a claim under the
24 provisions of this section;

25 (A) Only if the funds applied under (a)(ii) of this subsection
26 are insufficient to satisfy the damage directly caused by the
27 employee, agent, or officer of the seizing agency, may the landlord
28 seek compensation for the damage by filing a claim against the
29 governmental entity under whose authority the seizing agency operates
30 within 30 days after the search;

31 (B) Only if the governmental entity denies or fails to respond to
32 the landlord's claim within 60 days of the date of filing, may the
33 landlord collect damages under this subsection by filing within 30
34 days of denial or the expiration of the 60-day period, whichever
35 occurs first, a claim with the seizing agency. The seizing agency
36 must notify the landlord of the status of the claim by the end of the
37 30-day period. Nothing in this section requires the claim to be paid
38 by the end of the 60-day or 30-day period.

1 (b) For any claim filed under (a)(ii) of this subsection, the
2 seizing agency shall pay the claim unless the agency provides
3 substantial proof that the landlord either:

4 (i) Knew or consented to actions of the tenant in violation of
5 this chapter or the chapter pursuant to which the seizure was made;
6 or

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

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

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

14 (b) The lesser of the cost of repair or fair market value of the
15 damage directly caused by the employee, agent, or officer of the
16 seizing agency;

17 (c) The proceeds from the sale of the specific tenant's property
18 seized and forfeited; and

19 (d) The proceeds available after the seizing law enforcement
20 agency satisfies any bona fide security interest in the tenant's
21 property and costs related to sale of the tenant's property.

22 (4) Subsections (2) and (3) of this section do not limit any
23 other rights a landlord may have against a tenant to collect for
24 damages. However, if a seizing agency satisfies a landlord's claim
25 under subsection (2) of this section, the rights the landlord has
26 against the tenant for damages directly caused by an employee, agent,
27 or officer of the seizing agency under the terms of the landlord and
28 tenant's contract are subrogated to the seizing agency.

29 NEW SECTION. **Sec. 4.** When property is forfeited under this
30 chapter, the seizing agency may, after satisfying any court-ordered
31 restitution:

32 (1) Retain it for official use or upon application by any law
33 enforcement agency of this state release such property to such agency
34 to be used in enforcement;

35 (2) Sell that which is not required to be destroyed by law and
36 which is not harmful to the public;

37 (3) Request the appropriate sheriff or director of public safety
38 to take custody of the property and remove it for disposition in
39 accordance with law;

1 (4) Forward it to an appropriate entity, such as the drug
2 enforcement administration, for disposition; or

3 (5) Take any other action allowed by statute.

4 NEW SECTION. **Sec. 5.** (1)(a)(i) Except as provided in (a)(ii) of
5 this subsection, by January 31st of each year, each seizing agency
6 shall remit to the state treasurer an amount equal to 10 percent of
7 the net proceeds of any property forfeited during the preceding
8 calendar year. Money remitted shall be deposited in the state general
9 fund unless otherwise provided in statute.

10 (ii) By January 31st of each year, each seizing agency shall
11 remit to the state an amount equal to 10 percent of the net proceeds
12 of any property forfeited under RCW 10.105.010 and 46.61.5058 during
13 the preceding calendar year for deposit into the behavioral health
14 loan repayment program account created in RCW 28B.115.135 through
15 June 30, 2027, and into the state general fund thereafter.

16 (b) The net proceeds of forfeited property is the value of the
17 forfeitable interest in the property after deducting the cost of
18 satisfying any bona fide security interest to which the property is
19 subject at the time of seizure; and in the case of sold property,
20 after deducting the cost of sale, including reasonable fees or
21 commissions paid to independent selling agents, and the cost of any
22 valid landlord's claim for damages under section 3 of this act.

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

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

1 **Sec. 6.** RCW 9.68A.120 and 2022 c 162 s 4 are each amended to
2 read as follows:

3 The following are subject to seizure and forfeiture:

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

6 (2) All raw materials, equipment, and other tangible personal
7 property of any kind used or intended to be used to manufacture or
8 process any visual or printed matter that depicts a minor engaged in
9 sexually explicit conduct, and all conveyances, including aircraft,
10 vehicles, or vessels that are used or intended for use to transport,
11 or in any manner to facilitate the transportation of, visual or
12 printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

13 (a) No conveyance used by any person as a common carrier in the
14 transaction of business as a common carrier is subject to forfeiture
15 under this section unless it appears that the owner or other person
16 in charge of the conveyance is a consenting party or privy to a
17 violation of this chapter;

18 (b) No property is subject to forfeiture under this section by
19 reason of any act or omission (~~established by the owner of the~~
20 ~~property to have been~~) committed or omitted without the owner's
21 knowledge or consent;

22 (c) A forfeiture of property encumbered by a bona fide security
23 interest is subject to the interest of the secured party if the
24 secured party neither had knowledge of nor consented to the act or
25 omission; and

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

30 (3) All personal property, moneys, negotiable instruments,
31 securities, or other tangible or intangible property furnished or
32 intended to be furnished by any person in exchange for visual or
33 printed matter depicting a minor engaged in sexually explicit
34 conduct, or constituting proceeds traceable to any violation of this
35 chapter.

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

1 (a) The seizure is incident to an arrest or a search under a
2 search warrant or an inspection under an administrative inspection
3 warrant;

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

7 (c) A law enforcement officer has probable cause to believe that
8 the property is directly or indirectly dangerous to health or safety;
9 or

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

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

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

29 ~~(7) If any person notifies the seizing law enforcement agency in~~
30 ~~writing of the person's claim of ownership or right to possession of~~
31 ~~seized items within forty-five days of the seizure, the person or~~
32 ~~persons shall be afforded a reasonable opportunity to be heard as to~~
33 ~~the claim or right. The hearing shall be before an administrative law~~
34 ~~judge appointed under chapter 34.12 RCW, except that any person~~
35 ~~asserting a claim or right may remove the matter to a court of~~
36 ~~competent jurisdiction if the aggregate value of the article or~~
37 ~~articles involved is more than five hundred dollars. The hearing~~
38 ~~before an administrative law judge and any appeal therefrom shall be~~
39 ~~under Title 34 RCW. In a court hearing between two or more claimants~~
40 ~~to the article or articles involved, the prevailing party shall be~~

1 entitled to a judgment for costs and reasonable attorney's fees. The
2 burden of producing evidence shall be upon the person claiming to be
3 the lawful owner or the person claiming to have the lawful right to
4 possession of the seized items. The seizing law enforcement agency
5 shall promptly return the article or articles to the claimant upon a
6 determination by the administrative law judge or court that the
7 claimant is lawfully entitled to possession thereof of the seized
8 items.

9 (8) If property is sought to be forfeited on the ground that it
10 constitutes proceeds traceable to a violation of this chapter, the
11 seizing law enforcement agency must prove by a preponderance of the
12 evidence that the property constitutes proceeds traceable to a
13 violation of this chapter.

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

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

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

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

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

29 (b) The net proceeds of forfeited property is the value of the
30 forfeitable interest in the property after deducting the cost of
31 satisfying any bona fide security interest to which the property is
32 subject at the time of seizure; and in the case of sold property,
33 after deducting the cost of sale, including reasonable fees or
34 commissions paid to an independent selling agency.

35 (c) The value of sold forfeited property is the sale price. The
36 value of retained forfeited property is the fair market value of the
37 property at the time of seizure determined when possible by reference
38 to an applicable commonly used index. A seizing agency may use, but
39 need not use, an independent qualified appraiser to determine the
40 value of retained property. If an appraiser is used, the value of the

1 ~~property appraised is net of the cost of the appraisal. The value of~~
2 ~~destroyed property and retained firearms or illegal property is zero.~~

3 ~~(11) Forfeited property and net proceeds not required to be~~
4 ~~remitted to the state under this chapter shall be used for payment of~~
5 ~~all proper expenses of the investigation leading to the seizure,~~
6 ~~including any money delivered to the subject of the investigation by~~
7 ~~the law enforcement agency, and of the proceedings for forfeiture and~~
8 ~~sale, including expenses of seizure, maintenance of custody,~~
9 ~~advertising, actual costs of the prosecuting or city attorney, and~~
10 ~~court costs. Money remaining after payment of these expenses shall be~~
11 ~~retained by the seizing law enforcement agency for the exclusive use~~
12 ~~of enforcing the provisions of this chapter or chapter 9A.88 RCW))~~
13 are governed by chapter 7.--- RCW (the new chapter created in section
14 16 of this act).

15 **Sec. 7.** RCW 9A.88.150 and 2022 c 162 s 5 are each amended to
16 read as follows:

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

19 (a) Any property or other interest acquired or maintained in
20 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of
21 the investment of funds, and any appreciation or income attributable
22 to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or
23 9A.88.070;

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

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

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

36 (iii) A forfeiture of a conveyance encumbered by a bona fide
37 security interest is subject to the interest of the secured party if
38 the secured party neither had knowledge of nor consented to the act
39 or omission; and

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

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

10 (d) All proceeds traceable to or derived from an offense defined
11 in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable
12 instruments, securities, and other things of value significantly used
13 or intended to be used significantly to facilitate commission of the
14 offense;

15 (e) All books, records, and research products and materials,
16 including formulas, microfilm, tapes, and data which are used, or
17 intended for use, in violation of RCW 9.68A.100, 9.68A.101, or
18 9A.88.070;

19 (f) All moneys, negotiable instruments, securities, or other
20 tangible or intangible property of value furnished or intended to be
21 furnished by any person in exchange for a violation of RCW 9.68A.100,
22 9.68A.101, or 9A.88.070, all tangible or intangible personal
23 property, proceeds, or assets acquired in whole or in part with
24 proceeds traceable to an exchange or series of exchanges in violation
25 of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable
26 instruments, and securities used or intended to be used to facilitate
27 any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture
28 of money, negotiable instruments, securities, or other tangible or
29 intangible property encumbered by a bona fide security interest is
30 subject to the interest of the secured party if, at the time the
31 security interest was created, the secured party neither had
32 knowledge of nor consented to the act or omission. No personal
33 property may be forfeited under this subsection (1)(f), to the extent
34 of the interest of an owner, by reason of any act or omission(~~(7~~
35 ~~which that owner establishes was~~)) committed or omitted without the
36 owner's knowledge or consent; and

37 (g) All real property, including any right, title, and interest
38 in the whole of any lot or tract of land, and any appurtenances or
39 improvements which are being used with the knowledge of the owner for
40 a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have

1 been acquired in whole or in part with proceeds traceable to an
2 exchange or series of exchanges in violation of RCW 9.68A.100,
3 9.68A.101, or 9A.88.070, if a substantial nexus exists between the
4 violation and the real property. However:

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

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

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

25 (a) The seizure is incident to an arrest or a search under a
26 search warrant;

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

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

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

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

17 (4) If no 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 item seized shall be deemed forfeited. The community property
23 interest in real property of a person whose spouse or domestic
24 partner committed a violation giving rise to seizure of the real
25 property may not be forfeited if the person did not participate in
26 the violation.

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

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

22 The seizing law enforcement agency shall promptly return the
23 article or articles to the claimant upon a determination by the
24 administrative law judge or court that the claimant is the present
25 lawful owner or is lawfully entitled to possession thereof of items
26 specified in subsection (1) of this section.

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

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

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

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

1 ~~(c) Request the appropriate sheriff or director of public safety~~
2 ~~to take custody of the property and remove it for disposition in~~
3 ~~accordance with law.~~

4 ~~(8) (a) When property is forfeited, the seizing agency shall keep~~
5 ~~a record indicating the identity of the prior owner, if known, a~~
6 ~~description of the property, the disposition of the property, the~~
7 ~~value of the property at the time of seizure, and the amount of~~
8 ~~proceeds realized from disposition of the property.~~

9 ~~(b) Each seizing agency shall retain records of forfeited~~
10 ~~property for at least seven years.~~

11 ~~(c) Each seizing agency shall file a report including a copy of~~
12 ~~the records of forfeited property with the state treasurer each~~
13 ~~calendar quarter.~~

14 ~~(d) The quarterly report need not include a record of forfeited~~
15 ~~property that is still being held for use as evidence during the~~
16 ~~investigation or prosecution of a case or during the appeal from a~~
17 ~~conviction.~~

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

23 ~~(b) The net proceeds of forfeited property is the value of the~~
24 ~~forfeitable interest in the property after deducting the cost of~~
25 ~~satisfying any bona fide security interest to which the property is~~
26 ~~subject at the time of seizure; and in the case of sold property,~~
27 ~~after deducting the cost of sale, including reasonable fees or~~
28 ~~commissions paid to independent selling agents, and the cost of any~~
29 ~~valid landlord's claim for damages under subsection (12) of this~~
30 ~~section.~~

31 ~~(c) The value of sold forfeited property is the sale price. The~~
32 ~~value of destroyed property and retained firearms or illegal property~~
33 ~~is zero.~~

34 ~~(10) Net proceeds not required to be remitted to the state 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 9.68A RCW.~~

4 ~~(11) Upon the entry of an order of forfeiture of real property,~~
5 ~~the court shall forward a copy of the order to the assessor of the~~
6 ~~county in which the property is located. Orders for the forfeiture of~~
7 ~~real property shall be entered by the superior court, subject to~~
8 ~~court rules. Such an order shall be filed by the seizing agency in~~
9 ~~the county auditor's records in the county in which the real property~~
10 ~~is located.~~

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

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

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

21 ~~(i) Only if the funds applied under (b) of this subsection are~~
22 ~~insufficient to satisfy the damage directly caused by a law~~
23 ~~enforcement officer, may the landlord seek compensation for the~~
24 ~~damage by filing a claim against the governmental entity under whose~~
25 ~~authority the law enforcement agency operates within thirty days~~
26 ~~after the search;~~

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

36 ~~(c) For any claim filed under (b) of this subsection, the law~~
37 ~~enforcement agency shall pay the claim unless the agency provides~~
38 ~~substantial proof that the landlord either:~~

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

1 ~~(ii) Failed to respond to a notification of the illegal activity,~~
2 ~~provided by a law enforcement agency under RCW 59.18.075, within~~
3 ~~seven days of receipt of notification of the illegal activity.~~

4 ~~(13) The landlord's claim for damages under subsection (12) of~~
5 ~~this section may not include a claim for loss of business and is~~
6 ~~limited to:~~

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

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

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

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

16 ~~(14) Subsections (12) and (13) of this section do not limit any~~
17 ~~other rights a landlord may have against a tenant to collect for~~
18 ~~damages. However, if a law enforcement agency satisfies a landlord's~~
19 ~~claim under subsection (12) of this section, the rights the landlord~~
20 ~~has against the tenant for damages directly caused by a law~~
21 ~~enforcement officer under the terms of the landlord and tenant's~~
22 ~~contract are subrogated to the law enforcement agency)) are governed~~
23 ~~by chapter 7.--- RCW (the new chapter created in section 16 of this~~
24 ~~act).~~

25 **Sec. 8.** RCW 9A.83.030 and 2020 c 62 s 1 are each amended to read
26 as follows:

27 (1) Proceeds traceable to or derived from specified unlawful
28 activity or a violation of RCW 9A.83.020 are subject to seizure and
29 forfeiture. The attorney general or county prosecuting attorney may
30 file a civil action for the forfeiture of proceeds. Unless otherwise
31 provided for under this section, no property rights exist in these
32 proceeds. All right, title, and interest in the proceeds shall vest
33 in the governmental entity of which the seizing law enforcement
34 agency is a part upon commission of the act or omission giving rise
35 to forfeiture under this section.

36 (2) Real or personal property subject to forfeiture under this
37 chapter may be seized by any law enforcement officer of this state
38 upon process issued by a superior court that has jurisdiction over
39 the property. Any agency seizing real property shall file a lis

pendens concerning the property. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later. Real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant issued pursuant to RCW 69.50.502; or

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

(3) A seizure under subsection (2) of this section commences proceedings for forfeiture pursuant to chapter 7.--- RCW (the new chapter created in section 16 of this act). ~~((The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized proceeds to be served within fifteen days after the seizure on the owner of the property seized and the person in charge thereof and any person who has a known right or interest therein, including a community property interest. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure.~~

~~(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the property seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real~~

1 ~~property may not be forfeited if the person did not participate in~~
2 ~~the violation.~~

3 ~~(5) If a person notifies the seizing law enforcement agency in~~
4 ~~writing of the person's claim of ownership or right to possession of~~
5 ~~property within forty-five days of the seizure in the case of~~
6 ~~personal property and ninety days in the case of real property, the~~
7 ~~person or persons shall be afforded a reasonable opportunity to be~~
8 ~~heard as to the claim or right. The provisions of RCW 69.50.505(5)~~
9 ~~shall apply to any such hearing. The seizing law enforcement agency~~
10 ~~shall promptly return property to the claimant upon the direction of~~
11 ~~the administrative law judge or court.~~

12 ~~(6) Disposition of forfeited property shall be made in the manner~~
13 ~~provided for in RCW 69.50.505 (8) through (10) and (14) or 9.46.231~~
14 ~~(6) through (8) and (10).)~~

15 **Sec. 9.** RCW 10.105.010 and 2022 c 162 s 3 are each amended to
16 read as follows:

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

31 A forfeiture of property encumbered by a bona fide security
32 interest is subject to the interest of the secured party if at the
33 time the security interest was created, the secured party neither had
34 knowledge of nor consented to the commission of the felony.

35 (2) Personal property subject to forfeiture under this chapter
36 may be seized by any law enforcement officer of this state upon
37 process issued by any superior court having jurisdiction over the
38 property. Seizure of personal property without process may be made
39 if:

1 (a) The seizure is incident to an arrest or a search under a
2 search warrant;

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

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

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

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

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

32 ~~(5) If a person notifies the seizing law enforcement agency in~~
33 ~~writing of the person's claim of ownership or right to possession of~~
34 ~~the seized property within forty-five days of the seizure, the law~~
35 ~~enforcement agency shall give the person or persons a reasonable~~
36 ~~opportunity to be heard as to the claim or right. The hearing shall~~
37 ~~be before the chief law enforcement officer of the seizing agency or~~
38 ~~the chief law enforcement officer's designee, except where the~~
39 ~~seizing agency is a state agency as defined in RCW 34.12.020(4), the~~
40 ~~hearing shall be before the chief law enforcement officer of the~~

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

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

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

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

32 (7) By January 31st of each year, each seizing agency shall remit
33 to the state an amount equal to ten percent of the net proceeds of
34 any property forfeited during the preceding calendar year for deposit
35 into the behavioral health loan repayment program account created in
36 RCW 28B.115.135 through June 30, 2027, and into the state general
37 fund thereafter.

38 (a) The net proceeds of forfeited property is the value of the
39 forfeitable interest in the property after deducting the cost of
40 satisfying any bona fide security interest to which the property is

1 subject at the time of seizure; and in the case of sold property,
2 after deducting the cost of sale, including reasonable fees or
3 commissions paid to independent selling agents.

4 ~~(b) The value of sold forfeited property is the sale price. The~~
5 ~~value of retained forfeited property is the fair market value of the~~
6 ~~property at the time of seizure, determined when possible by~~
7 ~~reference to an applicable commonly used index, such as the index~~
8 ~~used by the department of licensing for valuation of motor vehicles.~~
9 ~~A seizing agency may use, but need not use, an independent qualified~~
10 ~~appraiser to determine the value of retained property. If an~~
11 ~~appraiser is used, the value of the property appraised is net of the~~
12 ~~cost of the appraisal. The value of destroyed property and retained~~
13 ~~firearms or illegal property is zero.~~

14 ~~(c) Retained property and net proceeds not required to be~~
15 ~~remitted to the state, or otherwise required to be spent under this~~
16 ~~section, shall be retained by the seizing law enforcement agency~~
17 ~~exclusively for the expansion and improvement of law enforcement~~
18 ~~activity. Money retained under this section may not be used to~~
19 ~~supplant preexisting funding sources)) are governed by chapter 7.---~~
20 ~~RCW (the new chapter created in section 16 of this act).~~

21 (4) When property is seized under this chapter and forfeited
22 pursuant to chapter 7.--- RCW (the new chapter created in section 16
23 of this act), the seizing agency must first satisfy any court-ordered
24 victim restitution before retaining, using, selling, or taking other
25 action with respect to the property as permitted under section 4 of
26 this act.

27 **Sec. 10.** RCW 19.290.230 and 2013 c 322 s 27 are each amended to
28 read as follows:

29 (1) The following personal property is subject to seizure and
30 forfeiture and no property right exists in them: All personal
31 property including, but not limited to, any item, object, tool,
32 substance, device, weapon, machine, vehicle of any kind, money,
33 security, or negotiable instrument, which the seizing agency proves
34 by a preponderance of the evidence was used or intended to be used by
35 its owner or the person in charge to knowingly or intentionally
36 facilitate the commission of, or to knowingly or intentionally abet
37 the commission of, a crime involving theft, trafficking, or unlawful
38 possession of commercial metal property, or which the seizing agency
39 proves by a preponderance of the evidence was knowingly or

1 intentionally furnished or was intended to be furnished by any person
2 in the commission of, as a result of, or as compensation for the
3 commission of, a crime involving theft, trafficking, or the unlawful
4 possession of commercial metal property, or which the property owner
5 acquired in whole or in part with proceeds traceable to a knowing or
6 intentional commission of a crime involving the theft, trafficking,
7 or unlawful possession of commercial metal property provided that
8 such activity is not less than a class C felony; except that:

9 (a) No vehicle used by any person as a common carrier in the
10 transaction of business as a common carrier is subject to forfeiture
11 under this section unless the seizing agency proves by a
12 preponderance of the evidence that the owner or other person in
13 charge of the vehicle is a consenting party or is privy to any crime
14 involving theft, trafficking, or the unlawful possession of
15 commercial metal property;

16 (b) A forfeiture of property encumbered by a bona fide security
17 interest is subject to the interest of the secured party if the
18 secured party neither had actual or constructive knowledge of nor
19 consented to the commission of any crime involving the theft,
20 trafficking, or unlawful possession of commercial metal property; and

21 (c) A property owner's property is not subject to seizure if an
22 employee or agent of that property owner uses the property owner's
23 property to knowingly or intentionally facilitate the commission of,
24 or to knowingly or intentionally aid and abet the commission of, a
25 crime involving theft, trafficking, or unlawful possession of
26 commercial metal property, in violation of that property owner's
27 instructions or policies against such activity, and without the
28 property owner's knowledge or consent.

29 (2) The following real property is subject to seizure and
30 forfeiture and no property right exists in them: All real property,
31 including any right, title, and interest in the whole of any lot or
32 tract of land, and any appurtenances or improvements, that the
33 seizing agency proves by a preponderance of the evidence are being
34 used with the knowledge of the owner for the intentional commission
35 of any crime involving the theft, trafficking, or unlawful possession
36 of commercial metal property, or which have been acquired in whole or
37 in part with proceeds traceable to the commission of any crime
38 involving the trafficking, theft, or unlawful possession of
39 commercial metal, if such activity is not less than a class C felony

1 and a substantial nexus exists between the commission of the
2 violation or crime and the real property. However:

3 (a) No property may be forfeited pursuant to this subsection (2),
4 to the extent of the interest of an owner, by reason of any act or
5 omission committed or omitted without the owner's actual or
6 constructive knowledge; and further, a property owner's real property
7 is not subject to seizure if an employee or agent of that property
8 owner uses the property owner's real property to knowingly or
9 intentionally facilitate the commission of, or to knowingly or
10 intentionally aid and abet the commission of, a crime involving
11 theft, trafficking, or unlawful possession of commercial metal
12 property, in violation of that property owner's instructions or
13 policies against such activity, and without the property owner's
14 knowledge or consent; and

15 (b) A forfeiture of real property encumbered by a bona fide
16 security interest is subject to the interest of the secured party if
17 the secured party, neither had actual or constructive knowledge, nor
18 consented to the act or omission.

19 (3) Property subject to forfeiture under this chapter may be
20 seized by any law enforcement officer of this state upon process
21 issued by any superior court having jurisdiction over the property.
22 Seizure of real property shall include the filing of a lis pendens by
23 the seizing agency. Real property seized under this section shall not
24 be transferred or otherwise conveyed until ninety days after seizure
25 or until a judgment of forfeiture is entered, whichever is later:
26 PROVIDED, That real property seized under this section may be
27 transferred or conveyed to any person or entity who acquires title by
28 foreclosure or deed in lieu of foreclosure of a security interest.
29 Seizure of personal property without process may be made if:

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

32 (b) The property subject to seizure has been the subject of a
33 prior judgment in favor of the state in a criminal injunction or
34 forfeiture proceeding.

35 (4) In the event of seizure pursuant to this section, proceedings
36 for forfeiture (~~(shall be)~~) are deemed commenced by the seizure and
37 governed by chapter 7.--- RCW (the new chapter created in section 16
38 of this act). (~~(The law enforcement agency under whose authority the~~
39 ~~seizure was made shall cause notice to be served within fifteen days~~
40 ~~following the seizure on the owner of the property seized and the~~

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

21 (5) If no person notifies the seizing law enforcement agency in
22 writing of the person's claim of ownership or right to possession of
23 items specified in subsection (1) of this section within forty-five
24 days of the seizure in the case of personal property and ninety days
25 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 (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 property within forty-five days of the seizure in the case
33 of personal property and ninety days in the case of real property,
34 the law enforcement agency shall give the person or persons a
35 reasonable opportunity to be heard as to the claim or right. The
36 hearing shall be before the chief law enforcement officer of the
37 seizing agency or the chief law enforcement officer's designee,
38 except where the seizing agency is a state agency as defined in RCW
39 34.12.020(4), the hearing shall be before the chief law enforcement
40 officer of the seizing agency or an administrative law judge

1 appointed under chapter 34.12 RCW, except that any person asserting a
2 claim or right may remove the matter to a court of competent
3 jurisdiction. Removal may only be accomplished according to the rules
4 of civil procedure. The person seeking removal of the matter must
5 serve process against the state, county, political subdivision, or
6 municipality that operates the seizing agency, and any other party of
7 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
8 five days after the person seeking removal has notified the seizing
9 law enforcement agency of the person's claim of ownership or right to
10 possession. The court to which the matter is to be removed shall be
11 the district court when the aggregate value of the property is within
12 the jurisdictional limit set forth in RCW 3.66.020. A hearing before
13 the seizing agency and any appeal therefrom shall be under Title 34
14 RCW. In a court hearing between two or more claimants to the property
15 involved, the prevailing party shall be entitled to a judgment for
16 costs and reasonable attorneys' fees. The burden of producing
17 evidence shall be upon the person claiming to be the lawful owner or
18 the person claiming to have the lawful right to possession of the
19 property.

20 (7) At the hearing, the seizing agency has the burden of proof to
21 establish by a preponderance of the evidence that seized property is
22 subject to forfeiture, and that the use or intended use of the seized
23 property in connection with a crime pursuant to this section occurred
24 with the owner's actual or constructive knowledge or consent. The
25 person claiming to be the lawful owner or the person claiming to have
26 the lawful right to possession of the property has the burden of
27 proof to establish by a preponderance of the evidence that the person
28 owns or has a right to possess the seized property. The possession of
29 bare legal title is not sufficient to establish ownership of seized
30 property if the seizing agency proves by a preponderance of the
31 evidence that the person claiming ownership or right to possession is
32 a nominal owner and did not actually own or exert a controlling
33 interest in the property.

34 The seizing law enforcement agency shall promptly return the
35 property to the claimant upon a determination by the administrative
36 law judge or court that the claimant is the present lawful owner or
37 is lawfully entitled to possession of the property.

38 (8) When property is forfeited under this chapter, after
39 satisfying any court-ordered victim restitution, the seizing law
40 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~~
3 ~~agency; or~~

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

6 ~~(9) (a) Within one hundred twenty days after the entry of an order~~
7 ~~of forfeiture, each seizing agency shall remit to, if known, the~~
8 ~~victim of the crime involving the seized property, an amount equal to~~
9 ~~fifty percent of the net proceeds of any property forfeited.~~

10 ~~(b) Retained property and net proceeds not required to be paid to~~
11 ~~victims shall be retained by the seizing law enforcement agency~~
12 ~~exclusively for the expansion and improvement of law enforcement~~
13 ~~activity. Money retained under this section may not be used to~~
14 ~~supplant preexisting funding sources.~~

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

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

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

39 (5) (a) When property is seized under this chapter and forfeited
40 pursuant to chapter 7.--- RCW (the new chapter created in section 16

1 of this act), the seizing agency must first satisfy any court-ordered
2 victim restitution before retaining, using, selling, or taking other
3 action with respect to the property as permitted under section 4 of
4 this act.

5 (b) Within 120 days after the entry of an order of forfeiture,
6 each seizing agency shall remit to, if known, the victim of the crime
7 involving the seized property, an amount equal to 50 percent of the
8 net proceeds of any property forfeited.

9 **Sec. 11.** RCW 46.61.5058 and 2022 c 162 s 2 are each amended to
10 read as follows:

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

28 (a) A vehicle encumbered by a bona fide security interest may be
29 transferred to the secured party or to a person designated by the
30 secured party;

31 (b) A leased or rented vehicle may be transferred to the lessor,
32 rental agency, or to a person designated by the lessor or rental
33 agency; and

34 (c) A vehicle may be transferred to a third party or a vehicle
35 dealer who is a bona fide purchaser or may be subject to a bona fide
36 security interest in the vehicle unless it is established that (i) in
37 the case of a purchase by a third party or vehicle dealer, such party
38 or dealer had actual notice that the vehicle was subject to the
39 prohibition prior to the purchase, or (ii) in the case of a security

1 interest, the holder of the security interest had actual notice that
2 the vehicle was subject to the prohibition prior to the encumbrance
3 of title.

4 (2) On conviction for a violation of either RCW 46.20.740,
5 46.61.502, or 46.61.504 or any similar municipal ordinance where the
6 person convicted has a prior offense within seven years as defined in
7 RCW 46.61.5055, the motor vehicle the person was driving or over
8 which the person had actual physical control at the time of the
9 offense, if the person has a financial interest in the vehicle, the
10 court shall consider at sentencing whether the vehicle shall be
11 seized and forfeited pursuant to this section if a seizure or
12 forfeiture has not yet occurred.

13 (3) A vehicle subject to forfeiture under this chapter may be
14 seized by a law enforcement officer of this state upon process issued
15 by a court of competent jurisdiction. Seizure of a vehicle may be
16 made without process if the vehicle subject to seizure has been the
17 subject of a prior judgment in favor of the state in a forfeiture
18 proceeding based upon this section.

19 (4) Seizure under subsection (3) of this section automatically
20 commences proceedings for forfeiture, which proceedings are governed
21 by chapter 7.--- RCW (the new chapter created in section 16 of this
22 act). ~~((The law enforcement agency under whose authority the seizure~~
23 ~~was made shall cause notice of the seizure and intended forfeiture of~~
24 ~~the seized vehicle to be served within fifteen days after the seizure~~
25 ~~on the owner of the vehicle seized, on the person in charge of the~~
26 ~~vehicle, and on any person having a known right or interest in the~~
27 ~~vehicle, including a community property interest. The notice of~~
28 ~~seizure may be served by any method authorized by law or court rule,~~
29 ~~including but not limited to service by certified mail with return~~
30 ~~receipt requested. Service by mail is complete upon mailing within~~
31 ~~the fifteen-day period after the seizure. Notice of seizure in the~~
32 ~~case of property subject to a security interest that has been~~
33 ~~perfected on a certificate of title shall be made by service upon the~~
34 ~~secured party or the secured party's assignee at the address shown on~~
35 ~~the financing statement or the certificate of title.~~

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

1 ~~(6) 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 vehicle 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, 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 vehicle 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 vehicle~~
25 ~~involved, the prevailing party shall be entitled to a judgment for~~
26 ~~costs and reasonable attorneys' fees. The burden of producing~~
27 ~~evidence shall be upon the person claiming to be the legal owner or~~
28 ~~the person claiming to have the lawful right to possession of the~~
29 ~~vehicle. The seizing law enforcement agency shall promptly return the~~
30 ~~vehicle to the claimant upon a determination by the administrative~~
31 ~~law judge or court that the claimant is the present legal owner under~~
32 ~~this title or is lawfully entitled to possession of the vehicle.~~

33 ~~(7))~~ (5) When a vehicle is forfeited under this chapter the
34 seizing law enforcement agency may sell the vehicle, retain it for
35 official use, or upon application by a law enforcement agency of this
36 state release the vehicle to that agency for the exclusive use of
37 enforcing this title; provided, however, that the agency shall first
38 satisfy any bona fide security interest to which the vehicle is
39 subject under subsection (1)(a) or (c) of this section.

1 ~~((8))~~ (6) When a vehicle is forfeited, the seizing agency shall
2 keep a record indicating the identity of the prior owner, if known, a
3 description of the vehicle, the disposition of the vehicle, the value
4 of the vehicle at the time of seizure, and the amount of proceeds
5 realized from disposition of the vehicle.

6 ~~((9))~~ (7) Each seizing agency shall retain records of forfeited
7 vehicles for at least seven years.

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

11 ~~(11) The quarterly report need not include a record of a
12 forfeited vehicle that is still being held for use as evidence during
13 the investigation or prosecution of a case or during the appeal from
14 a conviction.~~

15 ~~(12) By January 31st of each year, each seizing agency shall
16 remit to the state an amount equal to ten percent of the net proceeds
17 of vehicles forfeited during the preceding calendar year for deposit
18 into the behavioral health loan repayment program account created in
19 RCW 28B.115.135 through June 30, 2027, and into the state general
20 fund thereafter.~~

21 ~~(13) The net proceeds of a forfeited vehicle is the value of the
22 forfeitable interest in the vehicle after deducting the cost of
23 satisfying a bona fide security interest to which the vehicle is
24 subject at the time of seizure; and in the case of a sold vehicle,
25 after deducting the cost of sale, including reasonable fees or
26 commissions paid to independent selling agents.~~

27 ~~(14) The value of a sold forfeited vehicle is the sale price. The
28 value of a retained forfeited vehicle is the fair market value of the
29 vehicle at the time of seizure, determined when possible by reference
30 to an applicable commonly used index, such as the index used by the
31 department of licensing. A seizing agency may, but need not, use an
32 independent qualified appraiser to determine the value of retained
33 vehicles. If an appraiser is used, the value of the vehicle appraised
34 is net of the cost of the appraisal.))~~

35 **Sec. 12.** RCW 70.74.400 and 2002 c 370 s 3 are each amended to
36 read as follows:

37 (1) Explosives, improvised devices, and components of explosives
38 and improvised devices that are possessed, manufactured, delivered,
39 imported, exported, stored, sold, purchased, transported, abandoned,

1 detonated, or used, or intended to be used, in violation of a
2 provision of this chapter are subject to seizure and forfeiture by a
3 law enforcement agency and no property right exists in them.

4 (2) The law enforcement agency making the seizure shall notify
5 the Washington state department of labor and industries of the
6 seizure.

7 (3) Seizure of explosives, improvised devices, and components of
8 explosives and improvised devices under subsection (1) of this
9 section may be made if:

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

12 (b) The explosives, improvised devices, or components have been
13 the subject of a prior judgment in favor of the state in an
14 injunction or forfeiture proceeding based upon this chapter;

15 (c) A law enforcement officer has probable cause to believe that
16 the explosives, improvised devices, or components are directly or
17 indirectly dangerous to health or safety; or

18 (d) The law enforcement officer has probable cause to believe
19 that the explosives, improvised devices, or components were used or
20 were intended to be used in violation of this chapter.

21 (4) A law enforcement agency shall destroy explosives seized
22 under this chapter when it is necessary to protect the public safety
23 and welfare. When destruction is not necessary to protect the public
24 safety and welfare, and the explosives are not being held for
25 evidence, a seizure pursuant to this section commences proceedings
26 for forfeiture, which proceedings are governed by chapter 7.--- RCW
27 (the new chapter created in section 16 of this act).

28 ~~(5) ((The law enforcement agency under whose authority the~~
29 ~~seizure was made shall issue a written notice of the seizure and~~
30 ~~commencement of the forfeiture proceedings to the person from whom~~
31 ~~the explosives were seized, to any known owner of the explosives, and~~
32 ~~to any person who has a known interest in the explosives. The notice~~
33 ~~shall be issued within fifteen days of the seizure. The notice of~~
34 ~~seizure and commencement of the forfeiture proceedings shall be~~
35 ~~served in the same manner as provided in RCW 4.28.080 for service of~~
36 ~~a summons. The law enforcement agency shall provide a form by which~~
37 ~~the person or persons may request a hearing before the law~~
38 ~~enforcement agency to contest the seizure.~~

39 ~~(6) If no person notifies the seizing law enforcement agency in~~
40 ~~writing of the person's claim of ownership or right to possession of~~

1 ~~the explosives, improvised devices, or components within thirty days~~
2 ~~of the date the notice was issued, the seized explosives, devices, or~~
3 ~~components shall be deemed forfeited.~~

4 ~~(7) If, within thirty days of the issuance of the notice, any~~
5 ~~person notifies the seizing law enforcement agency in writing of the~~
6 ~~person's claim of ownership or right to possession of items seized,~~
7 ~~the person or persons shall be afforded a reasonable opportunity to~~
8 ~~be heard as to the claim or right. The hearing shall be before the~~
9 ~~chief law enforcement or the officer's designee of the seizing~~
10 ~~agency, except that the person asserting the claim or right may~~
11 ~~remove the matter to a court of competent jurisdiction if the~~
12 ~~aggregate value of the items seized is more than five hundred~~
13 ~~dollars. The hearing and any appeal shall be conducted according to~~
14 ~~chapter 34.05 RCW. The seizing law enforcement agency shall bear the~~
15 ~~burden of proving that the person (a) has no lawful right of~~
16 ~~ownership or possession and (b) that the items seized were possessed,~~
17 ~~manufactured, stored, sold, purchased, transported, abandoned,~~
18 ~~detonated, or used in violation of a provision of this chapter with~~
19 ~~the person's knowledge or consent.~~

20 ~~(8) The seizing law enforcement agency shall promptly return the~~
21 ~~items seized to the claimant upon a determination that the claimant~~
22 ~~is entitled to possession of the items seized.~~

23 ~~(9))~~ If the items seized are forfeited under this statute, the
24 seizing agency shall dispose of the explosives by summary
25 destruction. However, when explosives are destroyed either to protect
26 public safety or because the explosives were forfeited, the person
27 from whom the explosives were seized loses all rights of action
28 against the law enforcement agency or its employees acting within the
29 scope of their employment, or other governmental entity or employee
30 involved with the seizure and destruction of explosives.

31 ~~((10))~~ (6) This section is not intended to change the seizure
32 and forfeiture powers, enforcement, and penalties available to the
33 department of labor and industries pursuant to chapter 49.17 RCW as
34 provided in RCW 70.74.390.

35 **Sec. 13.** RCW 77.15.070 and 2005 c 406 s 2 are each amended to
36 read as follows:

37 (1) Fish and wildlife officers and ex officio fish and wildlife
38 officers may seize without warrant boats, airplanes, vehicles,
39 motorized implements, conveyances, gear, appliances, or other

1 articles they have probable cause to believe have been held with
2 intent to violate or used in violation of this title or rule of the
3 commission or director. However, fish and wildlife officers or ex
4 officio fish and wildlife officers may not seize any item or article,
5 other than for evidence, if under the circumstances, it is reasonable
6 to conclude that the violation was inadvertent. The property seized
7 is subject to forfeiture to the state under this section regardless
8 of ownership. Property seized may be recovered by its owner by
9 depositing with the department or into court a cash bond or
10 equivalent security equal to the value of the seized property but not
11 more than one hundred thousand dollars. Such cash bond or security is
12 subject to forfeiture in lieu of the property. Forfeiture of property
13 seized under this section is a civil forfeiture against property and
14 is intended to be a remedial civil sanction.

15 (2) In the event of a seizure of property under this section,
16 jurisdiction to begin the forfeiture proceedings shall commence upon
17 seizure, and shall be governed by chapter 7.--- RCW (the new chapter
18 created in section 16 of this act). (~~Within fifteen days following~~
19 ~~the seizure, the seizing authority shall serve a written notice of~~
20 ~~intent to forfeit property on the owner of the property seized and on~~
21 ~~any person having any known right or interest in the property seized.~~
22 ~~Notice may be served by any method authorized by law or court rule,~~
23 ~~including service by certified mail with return receipt requested.~~
24 ~~Service by mail is deemed complete upon mailing within the fifteen-~~
25 ~~day period following the seizure.~~

26 ~~(3) Persons claiming a right of ownership or right to possession~~
27 ~~of property are entitled to a hearing to contest forfeiture. Such a~~
28 ~~claim shall specify the claim of ownership or possession and shall be~~
29 ~~made in writing and served on the director within forty-five days of~~
30 ~~the seizure. If the seizing authority has complied with notice~~
31 ~~requirements and there is no claim made within forty-five days, then~~
32 ~~the property shall be forfeited to the state.~~

33 ~~(4) If any person timely serves the director with a claim to~~
34 ~~property, the person shall be afforded an opportunity to be heard as~~
35 ~~to the person's claim or right. The hearing shall be before the~~
36 ~~director or director's designee, or before an administrative law~~
37 ~~judge appointed under chapter 34.12 RCW, except that a person~~
38 ~~asserting a claim or right may remove the matter to a court of~~
39 ~~competent jurisdiction if the aggregate value of the property seized~~

1 is more than five thousand dollars. The department may settle a
2 person's claim of ownership prior to the administrative hearing.

3 ~~(5) The hearing to contest forfeiture and any subsequent appeal~~
4 ~~shall be as provided for in chapter 34.05 RCW, the administrative~~
5 ~~procedure act. The seizing authority has the burden to demonstrate~~
6 ~~that it had reason to believe the property was held with intent to~~
7 ~~violate or was used in violation of this title or rule of the~~
8 ~~commission or director. The person contesting forfeiture has the~~
9 ~~burden of production and proof by a preponderance of evidence that~~
10 ~~the person owns or has a right to possess the property and:~~

11 ~~(a) That the property was not held with intent to violate or used~~
12 ~~in violation of this title; or~~

13 ~~(b) If the property is a boat, airplane, or vehicle, that the~~
14 ~~illegal use or planned illegal use of the boat, airplane, or vehicle~~
15 ~~occurred without the owner's knowledge or consent, and that the owner~~
16 ~~acted reasonably to prevent illegal uses of such boat, airplane, or~~
17 ~~vehicle.~~

18 ~~(6) A forfeiture of a conveyance encumbered by a perfected~~
19 ~~security interest is subject to the interest of the secured party if~~
20 ~~the secured party neither had knowledge of nor consented to the act~~
21 ~~or omission. No security interest in seized property may be perfected~~
22 ~~after seizure.~~

23 ~~(7)) (3) If seized property is forfeited under this section the~~
24 ~~department may retain it for official use unless the property is~~
25 ~~required to be destroyed, or upon application by any law enforcement~~
26 ~~agency of the state, release such property to the agency for the use~~
27 ~~of enforcing this title, or sell such property, and deposit the~~
28 ~~proceeds to the fish and wildlife enforcement reward account created~~
29 ~~in RCW 77.15.425.~~

30 **Sec. 14.** RCW 69.50.505 and 2022 c 162 s 1 and 2022 c 16 s 98 are
31 each reenacted and amended to read as follows:

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

34 (a) All controlled substances which have been manufactured,
35 distributed, dispensed, acquired, or possessed in violation of this
36 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,
37 as defined in RCW 64.44.010, used or intended to be used in the
38 manufacture of controlled substances;

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

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

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

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

16 (ii) No conveyance is subject to forfeiture under this section by
17 reason of any act or omission (~~established by the owner thereof to~~
18 ~~have been~~) committed or omitted without the owner's knowledge or
19 consent;

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

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

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

32 (e) All books, records, and research products and materials,
33 including formulas, microfilm, tapes, and data which are used, or
34 intended for use, in violation of this chapter or chapter 69.41 or
35 69.52 RCW;

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

39 (g) All moneys, negotiable instruments, securities, or other
40 tangible or intangible property of value furnished or intended to be

1 furnished by any person in exchange for a controlled substance in
2 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
3 or intangible personal property, proceeds, or assets acquired in
4 whole or in part with proceeds traceable to an exchange or series of
5 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
6 and all moneys, negotiable instruments, and securities used or
7 intended to be used to facilitate any violation of this chapter or
8 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable
9 instruments, securities, or other tangible or intangible property
10 encumbered by a bona fide security interest is subject to the
11 interest of the secured party if, at the time the security interest
12 was created, the secured party neither had knowledge of nor consented
13 to the act or omission. No personal property may be forfeited under
14 this subsection (1)(g), to the extent of the interest of an owner, by
15 reason of any act or omission (~~which that owner establishes was~~)
16 committed or omitted without the owner's knowledge or consent; and

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

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

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

34 (iii) The possession of cannabis shall not result in the
35 forfeiture of real property unless the cannabis is possessed for
36 commercial purposes that are unlawful under Washington state law, the
37 amount possessed is five or more plants or one pound or more of
38 cannabis, and a substantial nexus exists between the possession of
39 cannabis and the real property. In such a case, the intent of the
40 offender shall be determined by the preponderance of the evidence,

1 including the offender's prior criminal history, the amount of
2 cannabis possessed by the offender, the sophistication of the
3 activity or equipment used by the offender, whether the offender was
4 licensed to produce, process, or sell cannabis, or was an employee of
5 a licensed producer, processor, or retailer, and other evidence which
6 demonstrates the offender's intent to engage in unlawful commercial
7 activity;

8 (iv) The unlawful sale of cannabis or a legend drug shall not
9 result in the forfeiture of real property unless the sale was forty
10 grams or more in the case of cannabis or one hundred dollars or more
11 in the case of a legend drug, and a substantial nexus exists between
12 the unlawful sale and the real property; and

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

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

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

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

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

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

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

26 (4) 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 items specified in subsection (1)(d), (g), or (h) of this section
29 within (~~(forty-five)~~) 60 days of the service of notice from the
30 seizing agency in the case of personal property and (~~(ninety)~~) 120
31 days in the case of real property, the item seized shall be deemed
32 forfeited. The community property interest in real property of a
33 person whose spouse or domestic partner committed a violation giving
34 rise to seizure of the real property may not be forfeited if the
35 person did not participate in the violation.

36 (5) If any person notifies the seizing law enforcement agency in
37 writing of the person's claim of ownership or right to possession of
38 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)
39 of this section within (~~(forty-five)~~) 60 days of the service of
40 notice from the seizing agency in the case of personal property and

1 (~~ninety~~) 120 days in the case of real property, the person or
2 persons shall be afforded a reasonable opportunity to be heard as to
3 the claim or right. The notice of claim may be served by any method
4 authorized by law or court rule including, but not limited to,
5 service by first-class mail. Service by mail shall be deemed complete
6 upon mailing within the (~~forty-five~~) 60-day period following
7 service of the notice of seizure in the case of personal property and
8 within the (~~ninety-day~~) 120-day period following service of the
9 notice of seizure in the case of real property. The hearing shall be
10 before the chief law enforcement officer of the seizing agency or the
11 chief law enforcement officer's designee, except where the seizing
12 agency is a state agency as defined in RCW 34.12.020(4), the hearing
13 shall be before the chief law enforcement officer of the seizing
14 agency or an administrative law judge appointed under chapter 34.12
15 RCW, except that any person asserting a claim or right may remove the
16 matter to a court of competent jurisdiction. Removal of any matter
17 involving personal property may only be accomplished according to the
18 rules of civil procedure. The person seeking removal of the matter
19 must serve process against the state, county, political subdivision,
20 or municipality that operates the seizing agency, and any other party
21 of interest, in accordance with RCW 4.28.080 or 4.92.020, within
22 forty-five days after the person seeking removal has notified the
23 seizing law enforcement agency of the person's claim of ownership or
24 right to possession. The court to which the matter is to be removed
25 shall be the district court when the aggregate value of personal
26 property is within the jurisdictional limit set forth in RCW
27 3.66.020. A hearing before the seizing agency and any appeal
28 therefrom shall be under Title 34 RCW. In all cases, the burden of
29 proof is upon the law enforcement agency to establish, by a
30 preponderance of the evidence, that the property is subject to
31 forfeiture.

32 The seizing law enforcement agency shall promptly return the
33 article or articles to the claimant, in the same or substantially
34 similar condition as when seized, upon a determination by the
35 administrative law judge or court that the claimant is the present
36 lawful owner or is lawfully entitled to possession thereof of items
37 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of
38 this section.

39 (6) In any proceeding to forfeit property under this title, where
40 the claimant substantially prevails, the claimant is entitled to

1 reasonable attorneys' fees reasonably incurred by the claimant. In
2 addition, in a court hearing between two or more claimants to the
3 article or articles involved, the prevailing party is entitled to a
4 judgment for costs and reasonable attorneys' fees.

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

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

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

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

15 (d) Forward it to the drug enforcement administration for
16 disposition.

17 (8) ~~((a) When property is forfeited, the seizing agency shall
18 keep a record indicating the identity of the prior owner, if known, a
19 description of the property, the disposition of the property, the
20 value of the property at the time of seizure, and the amount of
21 proceeds realized from disposition of the property.~~

22 ~~(b) Each seizing agency shall retain records of forfeited
23 property for at least seven years.~~

24 ~~(c) Each seizing agency shall file a report including a copy of
25 the records of forfeited property with the state treasurer each
26 calendar quarter.~~

27 ~~(d) The quarterly report need not include a record of forfeited
28 property that is still being held for use as evidence during the
29 investigation or prosecution of a case or during the appeal from a
30 conviction.)) Seizing agencies are subject to the requirements of
31 section 4 of this act.~~

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

38 (b) The net proceeds of forfeited property is the value of the
39 forfeitable interest in the property after deducting the cost of
40 satisfying any bona fide security interest to which the property is

1 subject at the time of seizure; and in the case of sold property,
2 after deducting the cost of sale, including reasonable fees or
3 commissions paid to independent selling agents, and the cost of any
4 valid landlord's claim for damages under subsection (15) of this
5 section.

6 (c) The value of sold forfeited property is the sale price. The
7 value of retained forfeited property is the fair market value of the
8 property at the time of seizure, determined when possible by
9 reference to an applicable commonly used index, such as the index
10 used by the department of licensing for valuation of motor vehicles.
11 A seizing agency may use, but need not use, an independent qualified
12 appraiser to determine the value of retained property. If an
13 appraiser is used, the value of the property appraised is net of the
14 cost of the appraisal. The value of destroyed property and retained
15 firearms or illegal property is zero.

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

27 (11) Controlled substances listed in Schedule I, II, III, IV, and
28 V that are possessed, transferred, sold, or offered for sale in
29 violation of this chapter are contraband and shall be seized and
30 summarily forfeited to the state. Controlled substances listed in
31 Schedule I, II, III, IV, and V, which are seized or come into the
32 possession of the commission, the owners of which are unknown, are
33 contraband and shall be summarily forfeited to the commission.

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

39 (13) The failure, upon demand by a commission inspector or law
40 enforcement officer, of the person in occupancy or in control of land

1 or premises upon which the species of plants are growing or being
2 stored to produce an appropriate registration or proof that he or she
3 is the holder thereof constitutes authority for the seizure and
4 forfeiture of the plants.

5 (14) Upon the entry of an order of forfeiture of real property,
6 the court shall forward a copy of the order to the assessor of the
7 county in which the property is located. Orders for the forfeiture of
8 real property shall be entered by the superior court, subject to
9 court rules. Such an order shall be filed by the seizing agency in
10 the county auditor's records in the county in which the real property
11 is located.

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

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

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

23 (A) Only if the funds applied under (a)(ii) of this subsection
24 are insufficient to satisfy the damage directly caused by a law
25 enforcement officer, may the landlord seek compensation for the
26 damage by filing a claim against the governmental entity under whose
27 authority the law enforcement agency operates within thirty days
28 after the search;

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

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

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

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

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

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

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

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

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

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

25 (18) The protections afforded by the service members' civil
26 relief act, chapter 38.42 RCW, are applicable to proceedings under
27 this section.

28 **Sec. 15.** RCW 38.42.020 and 2014 c 65 s 2 are each amended to
29 read as follows:

30 (1) Any service member who is ordered to report for military
31 service and his or her dependents are entitled to the rights and
32 protections of this chapter during the period beginning on the date
33 on which the service member receives the order and ending one hundred
34 eighty days after termination of or release from military service.

35 (2) This chapter applies to any judicial or administrative
36 proceeding commenced in any court or agency in Washington state in
37 which a service member or his or her dependent is a party. This
38 chapter applies to civil asset forfeiture proceedings. This chapter
39 does not apply to criminal proceedings.

1 (3) This chapter shall be construed liberally so as to provide
2 fairness and do substantial justice to service members and their
3 dependents.

4 NEW SECTION. **Sec. 16.** Sections 1 through 5 of this act
5 constitute a new chapter in Title 7 RCW.

6 NEW SECTION. **Sec. 17.** This act applies to seizures occurring on
7 or after the effective date of this section.

8 NEW SECTION. **Sec. 18.** Except for section 7 of this act, this
9 act takes effect January 1, 2026.

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