

RCW 78.52.467 Illegal oil, gas, or product—Sale, purchase, etc., prohibited—Seizure and sale—Deposit of proceeds. (1) The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, gas, or product is prohibited. However, no penalty by way of fine may be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, gas, or product unless (a) the person knows, or is put on notice of, facts indicating that illegal oil, illegal gas, or illegal product is involved, or (b) the person fails to obtain a certificate of clearance with respect to the oil, gas, or product if prescribed by rule or order of the department, or fails to follow any other method prescribed by an order of the department for the identification of the oil, gas, or product.

(2) Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale as provided in this section. Seizure and sale shall be in addition to all other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. If the department believes that any oil, gas, or product is illegal, the department acting through the attorney general, shall bring a civil action in rem in the superior court of the county in which the oil, gas, or product is found, to seize and sell the same, or the department may include such an action in rem in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. A person claiming an interest in oil, gas, or product affected by an action in rem has the right to intervene as an interested party.

(3) Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem and shall proceed in the name of the state as plaintiff against the oil, gas, or product as defendant. No bond or similar undertaking may be required of the plaintiff. Upon the filing of the petition for seizure and sale, the clerk of the court shall issue a summons, with a copy of the petition attached thereto, directed to the sheriff of the county or to another officer or person whom the court may designate, for service upon all persons having or claiming any interest in the oil, gas, or product described in the petition. The summons shall command these persons to appear and answer within twenty days after the issuance and service of the summons. These persons need not be named or otherwise identified in the summons, and the summons shall be served by posting a copy of the summons, with a copy of the petition attached, on any public bulletin board or at the courthouse of a county where the oil, gas, or product involved is located, and by posting another copy at or near the place where the oil, gas, or product is located. The posting constitutes notice of the action to all persons having or claiming any interest in the oil, gas, or product described in the petition. In addition, if the court, on a properly verified petition, or affidavit or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized, and directing the sheriff of the county to take the oil, gas, or product into the sheriff's actual or constructive custody and to hold the same subject to further orders of the court. The court, in the order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by him or her under the order to a court-appointed agent. The agent shall give bond in an amount and with such surety as the court may direct,

conditioned upon compliance with the orders of the court concerning the custody and disposition of the oil, gas, or product.

(4) Any person having an interest in oil, gas, or product described in order of seizure and contesting the right of the state to seize and sell the oil, gas, or product may obtain its release prior to sale upon furnishing to the sheriff a bond approved by the court. The bond shall be in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released and shall be conditioned upon either redelivery to the sheriff of the released commodity or payment to the sheriff of its market value, if and when ordered by the court, and upon full compliance with further orders of the court.

(5) If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that the oil, gas, or product is contraband, the court shall order its sale by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action, except that the court may order that the oil, gas, or product be sold in specified lots or portions and at specified intervals. Upon sale, title to the oil, gas, or product sold shall vest in the purchaser free of all claims, and it shall be legal oil, legal gas, or legal product in the hands of the purchaser.

(6) All proceeds, less costs of suit and expenses of sale, which are derived from the sale of illegal oil, illegal gas, or illegal product, and all amounts paid as penalties provided for by this chapter, shall be paid into the state treasury for the use of the department in defraying its expenses in the same manner as other funds provided by law for the use of the department. [1994 sp.s. c 9 s 847; 1983 c 253 s 30.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.