

HOUSE BILL NO. HB0076

Property forfeitures and seizures.

Sponsored by: Representative(s) Kroeker, Baker, Gingery,
Hutchings, Jaggi, McKim, Miller, Reeder and
Watt and Senator(s) Case

A BILL

for

1 AN ACT relating to forfeitures and seizures; removing
2 forfeiture of property that is not used in a violation of
3 the Wyoming Controlled Substances Act as specified;
4 specifying the burden of proof for forfeiture of property;
5 specifying the disposition of forfeited property;
6 prohibiting law enforcement agencies from accepting
7 property forfeited by other jurisdictions; requiring a
8 report; repealing conflicting provisions; and providing for
9 an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 35-7-1049(a)(ii), (iv), (v)(intro),
14 (A), (vii), (b)(iii), (c), (e)(intro), (ii), by creating a
15 new paragraph (vii) and (j) is amended to read:

16

1 **35-7-1049. Forfeitures and seizures generally;**
2 **property subject to forfeiture.**

3
4 (a) The following are subject to forfeiture:

5
6 (ii) All raw materials, products, and equipment
7 of any kind which are used, ~~or intended for use,~~ in
8 manufacturing, compounding, processing, delivering,
9 importing, or exporting any controlled substances in
10 violation of this act;

11
12 (iv) All books, records, and research products
13 and materials, including formulas, microfilm, tapes, and
14 data, which are used, ~~or intended for use,~~ in violation of
15 this act;

16
17 (v) All conveyances including aircraft, vehicles
18 or vessels, knowingly used ~~or intended for use~~ to transport
19 or in any manner to knowingly facilitate the transportation
20 for the sale or receipt of property described in paragraph
21 (a)(i) or (ii) of this section may be seized by the
22 commissioner and forfeited to the state pursuant to
23 subsection (e) of this section:

1 (A) No conveyance used by any person as a
2 common carrier in the transaction of business as a common
3 carrier is subject to forfeiture under this section unless
4 ~~it appears~~ it is shown by clear and convincing evidence
5 that the owner or corporate officer is a consenting party
6 or privy to a violation of this act;
7

8 (vii) All buildings knowingly used ~~or intended~~
9 ~~for use~~ to store, manufacture or distribute property
10 described under paragraphs (a)(i) or (ii) of this section
11 if the owner has knowledge of or gives consent to the act
12 of violation. A forfeiture of property encumbered by a bona
13 fide security interest is subject to the interest of the
14 secured party if he did not have knowledge of or give
15 consent to the act;
16

17 (b) Property subject to forfeiture under this act may
18 be seized by any law enforcement officer of the state upon
19 process issued by any district court or district court
20 commissioner having jurisdiction over the property. Seizure
21 without process may be made if:
22

1 (iii) The board or commissioner has probable
2 cause to believe that the property was used ~~or is intended~~
3 ~~to be used~~ in violation of this act.

4
5 (c) Prompt institution of proceedings. - In the event
6 of seizure pursuant to subsection (b) of this section,
7 proceedings under subsection (d) of this section shall be
8 instituted promptly in a district court having jurisdiction
9 over the property. The commissioner shall prove by clear
10 and convincing evidence that the seized property is subject
11 to forfeiture under subsection (a) of this section.

12
13 (e) When property is forfeited under this act, the
14 commissioner ~~may~~ shall:

15
16 (ii) Sell any such property which is not
17 required to be destroyed by law or otherwise destroyed or
18 disposed of under this subsection and which is not harmful
19 to the public. The proceeds shall be used for payment of
20 all proper expenses of the proceedings for forfeiture and
21 sale, including expenses of seizure, maintenance of
22 custody, advertising and court costs;

1 (vii) Transfer all remaining funds to the state
2 treasurer for deposit in the state general fund.

3
4 (j) ~~Any~~No law enforcement agency of this state may
5 accept, receive, dispose of ~~and~~or expend the property or
6 proceeds from any property forfeited to the federal
7 government or any state and allocated to the agency by the
8 United States attorney general pursuant to 21 U.S.C. 881(e)
9 or any law of another state. ~~The property or proceeds shall~~
10 ~~be in addition to funds appropriated to the law enforcement~~
11 ~~agency by the state legislature or any unit of local~~
12 ~~government. The property or proceeds may be credited to~~
13 ~~any lawfully created fund or account designated to receive~~
14 ~~proceeds of forfeitures.~~

15
16 **Section 2.** W.S. 35-7-1049(e)(i), (v), (k), (m) and
17 (n) is repealed.

18
19 **Section 3.** The attorney general shall submit a report
20 not later than November 1, 2014 to the joint appropriations
21 interim committee and the joint judiciary interim committee
22 concerning recipients and the amount of property and
23 proceeds received, disposed of or expended under W.S.
24 35-7-1049(j) prior to the effective date of this act. Any

1 proceeds or property received by a local law enforcement
2 agency under W.S. 35-7-1049(j) or for which forfeiture
3 proceedings were commenced prior to the effective date of
4 this act may be forfeited and shall be accounted for by the
5 law enforcement agency in accordance with statutes as
6 existing prior to this act.

7

8 **Section 4.** This act is effective immediately upon
9 completion of all acts necessary for a bill to become law
10 as provided by Article 4, Section 8 of the Wyoming
11 Constitution.

12

13 (END)