

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [Bill Number]

Asset forfeiture-1.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to seizures and forfeitures; imposing
2 reporting requirements for forfeitures as specified;
3 modifying seizure and forfeiture provisions of the Wyoming
4 Controlled Substances Act, including property subject to
5 forfeiture, the burden of proof and permissible disposition
6 of property; repealing and conforming provisions; and
7 providing for an effective date.

8

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

10

11 **Section 1.** W.S. 7-2-105 by creating a new subsection
12 (t), 35-7-1049(a)(ii), (iv), (v), (vii), (b)(iii), (c),
13 (e)(i) and (ii) are amended to read:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

7-2-105. Disposition and appraisal of property seized or held; notice and order to show cause; judgment.

(t) Except as provided in paragraph (iii) of this subsection, if property is forfeited by any peace officer pursuant to any law of this state:

(i) The head of the law enforcement agency shall report to the attorney general no later than June 1 of each year:

(A) A description of the property or proceeds forfeited;

(B) The value of the property or proceeds forfeited;

(C) The manner in which the property was disposed of;

1 (D) The governmental entity that received
2 any of the property or proceeds;

3
4 (E) All accounts in which forfeited
5 proceeds were deposited and the amount of each deposit.

6
7 (ii) No later than August 1 of each year, the
8 attorney general shall report to the joint judiciary
9 interim committee on all forfeitures by peace officers in
10 the preceding year and shall provide the information
11 received under paragraph (i) of this subsection;

12
13 (iii) This subsection shall not apply to
14 biological evidence or property that may be summarily
15 destroyed by law.

16
17 **35-7-1049. Forfeitures and seizures generally;**
18 **property subject to forfeiture.**

19
20 (a) The following are subject to forfeiture:

21
22 (ii) All raw materials, products, and equipment
23 of any kind which are used, ~~or intended for use,~~ in

1 manufacturing, compounding, processing, delivering,
2 importing, or exporting any controlled substances in
3 violation of this act;

4

5 (iv) All books, records, and research products
6 and materials, including formulas, microfilm, tapes, and
7 data, which are used, ~~or intended for use,~~ in violation of
8 this act;

9

10 (v) All conveyances including aircraft, vehicles
11 or vessels, knowingly used ~~or intended for use~~ to transport
12 or in any manner to knowingly facilitate the transportation
13 for the sale or receipt of property described in paragraph
14 (a)(i) or (ii) of this section may be seized by the
15 commissioner and forfeited to the state pursuant to
16 subsection (e) of this section:

17

18 (A) No conveyance used by any person as a
19 common carrier in the transaction of business as a common
20 carrier is subject to forfeiture under this section unless
21 ~~it appears~~ it is shown by clear and convincing evidence
22 that the owner or corporate officer is a consenting party
23 or privy to a violation of this act;

1

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

10

11 (b) Property subject to forfeiture under this act may
12 be seized by any law enforcement officer of the state upon
13 process issued by any district court or district court
14 commissioner having jurisdiction over the property. Seizure
15 without process may be made if:

16

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

20

21 (c) Prompt institution of proceedings. - In the event
22 of seizure pursuant to subsection (b) of this section,
23 proceedings under subsection (d) of this section shall be

1 instituted promptly in a district court of the county in
2 which any of the property seized was located. The
3 commissioner shall prove by clear and convincing evidence
4 that the seized property is subject to forfeiture under
5 subsection (a) of this section.

6
7 (e) When property is forfeited under this act, the
8 property shall be transferred to the commissioner. The
9 commissioner ~~may~~ shall distribute the property in any of
10 the following ways:

11
12 (i) ~~Retain it for official use; in which case it~~
13 ~~shall become~~ Transfer all or part of the property ~~of the~~
14 ~~state of Wyoming~~ to a law enforcement agency that
15 participated in the investigation. The value of property or
16 proceeds transferred shall be proportionate to the agency's
17 participation in the investigation and shall not exceed the
18 expenses incurred by the agency in the investigation. Any
19 remaining proceeds shall be transferred to the state
20 treasurer for deposit into the general fund or distributed
21 as provided in this subsection;

22

1 **Section 3.** This act is effective July 1, 2015.

2

3

(END)