

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2521**

4 (By Delegates Skaff and Marcum)

5
6 (Originating in the House Committee on the Judiciary)

7
8 [March 26, 2013]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §60A-7-705a, relating
12 to the West Virginia Contraband Forfeiture Act; revising
13 procedures for administrative forfeiture of certain types of
14 property involved in the trafficking of controlled substances;
15 establishing time frames; and providing for notice.

16 *Be it enacted by the Legislature of West Virginia:*

17 That the Code of West Virginia, 1931, as amended, be amended
18 by adding thereto a new section, designated §60A-7-705a, to read as
19 follows:

20 **ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.**

21 **§60A-7-705a. Additional procedures for forfeiture.**

22 (a) Notwithstanding the provisions of section seven hundred
23 five of this article, forfeitable moneys are subject to
24 administrative forfeiture by the prosecuting attorney of a county

1 or duly appointed special prosecutor.

2 (b) An administrative forfeiture notice shall be provided by
3 the prosecuting attorney after the seizure of the money in
4 question. The notice shall contain the following:

5 (1) A description of the money seized;

6 (2) A statement as to who is responsible for the seizure;

7 (3) A statement of the time and place of seizure;

8 (4) The identity of the owner or owners of the money, if
9 known; and

10 (5) The identity of the person or persons in possession of the
11 money at the time seized.

12 (c) At the time of filing or as soon as practicable
13 thereafter, a copy of the petition for forfeiture shall be served
14 upon the owner or owners of the seized money. Should diligent
15 efforts fail to disclose the lawful owner or owners of the seized
16 money, a copy of the petition for forfeiture shall be served upon
17 any person who was in possession or alleged to be in possession of
18 the money at the time of seizure, where such person's identity is
19 known. The above service shall be made pursuant to the provisions
20 of the West Virginia Rules of Civil Procedure.

21 (d) The administrative forfeiture notice shall include a
22 statement substantially as follows: "To any claimant: "The
23 confiscated money is subject to administrative forfeiture unless
24 you provide a written notice, within thirty days of receipt of this

1 notice, that you wish to contest this forfeiture. If you fail to
2 provide a notice to the prosecuting attorney, you will immediately
3 and forever lose all right, claim, title and interest to the
4 confiscated money, and it will be disposed of according to law."

5 (e) If, after thirty days of the delivery of notice from the
6 prosecuting attorney as provided in subsections (c) and (d) of this
7 section, no notice is received from any person indicating a desire
8 to contest the administrative forfeiture, all right, title and
9 interest to the confiscated money shall immediately vest in the
10 state, and shall be disposed of in the same manner as in a civil
11 forfeiture.

12 (g) If notice is received from any person, within the required
13 period of time, indicating a desire to contest the administrative
14 forfeiture, then no forfeiture may be obtained except through a
15 civil forfeiture proceeding under section seven hundred five of
16 this article.