

COMMITTEE SUBSTITUTE

FOR

**H. B. 2521**

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(BY DELEGATE(S) SKAFF AND MARCUM)

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(Originating in the House Committee on the Judiciary)

[March 26, 2013]

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

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

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

ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.

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

1        (a) Notwithstanding the provisions of section seven hundred  
2        five of this article, forfeitable moneys are subject to administra-  
3        tive forfeiture by the prosecuting attorney of a county or duly  
4        appointed special prosecutor.

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

8        (1) A description of the money seized;

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

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

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

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

15       (c) At the time of filing or as soon as practicable thereafter,  
16       a copy of the petition for forfeiture shall be served upon the  
17       owner or owners of the seized money. Should diligent efforts fail  
18       to disclose the lawful owner or owners of the seized money, a

19 copy of the petition for forfeiture shall be served upon any  
 20 person who was in possession or alleged to be in possession of  
 21 the money at the time of seizure, where such person's identity is  
 22 known. The above service shall be made pursuant to the provi-  
 23 sions of the West Virginia Rules of Civil Procedure.

24 (d) The administrative forfeiture notice shall include a  
 25 statement substantially as follows: "To any claimant: "The  
 26 confiscated money is subject to administrative forfeiture unless  
 27 you provide a written notice, within thirty days of receipt of this  
 28 notice, that you wish to contest this forfeiture. If you fail to  
 29 provide a notice to the prosecuting attorney, you will immedi-  
 30 ately and forever lose all right, claim, title and interest to the  
 31 confiscated money, and it will be disposed of according to law."

32 (e) If, after thirty days of the delivery of notice from the  
 33 prosecuting attorney as provided in subsections (c) and (d) of  
 34 this section, no notice is received from any person indicating a  
 35 desire to contest the administrative forfeiture, all right, title and  
 36 interest to the confiscated money shall immediately vest in the  
 37 state, and shall be disposed of in the same manner as in a civil  
 38 forfeiture.

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