

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 267

By: Dahm

6 AS INTRODUCED

7 An Act relating to forfeiture; amending 63 O.S. 2011,
8 Section 2-503, as amended by Section 5, Chapter 154,
9 O.S.L. 2014 (63 O.S. Supp. 2016, Section 2-503),
10 which relates to property subject to forfeiture;
11 providing exception to certain presumption; updating
12 language; and providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-503, as
14 amended by Section 5, Chapter 154, O.S.L. 2014 (63 O.S. Supp. 2016,
15 Section 2-503), is amended to read as follows:

16 Section 2-503. A. The following shall be subject to
17 forfeiture:

18 1. All controlled dangerous substances and synthetic controlled
19 substances which have been manufactured, distributed, dispensed,
20 acquired, concealed or possessed in violation of the Uniform
21 Controlled Dangerous Substances Act;

22 2. All raw materials, products and equipment of any kind and
23 all drug paraphernalia as defined by the Uniform Controlled
24 Dangerous Substances Act, which are used, or intended for use, in

1 manufacturing, compounding, processing, delivering, importing or
2 exporting, injecting, ingesting, inhaling, or otherwise introducing
3 into the human body any controlled dangerous substance or synthetic
4 controlled substance in violation of the provisions of the Uniform
5 Controlled Dangerous Substances Act;

6 3. All property which is used, or intended for use, as a
7 container for property described in paragraphs 1, 2, 5 and 6 of this
8 subsection;

9 4. All conveyances, including aircraft, vehicles, vessels, or
10 farm implements which are used to transport, conceal, or cultivate
11 for the purpose of distribution as defined in the Uniform Controlled
12 Dangerous Substances Act, or which are used in any manner to
13 facilitate the transportation or cultivation for the purpose of sale
14 or receipt of property described in paragraphs 1 or 2 of this
15 subsection or when the property described in paragraphs 1 or 2 of
16 this subsection is unlawfully possessed by an occupant thereof,
17 except that:

- 18 a. no conveyance used by a person as a common carrier in
19 the transaction of business as a common carrier shall
20 be forfeited under the provisions of the Uniform
21 Controlled Dangerous Substances Act unless it shall
22 appear that the owner or other person in charge of
23 such conveyance was a consenting party or privy to a
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1 violation of the Uniform Controlled Dangerous
2 Substances Act, and

3 b. no conveyance shall be forfeited under the provisions
4 of this section by reason of any act or omission
5 established by the owner thereof to have been
6 committed or omitted without the knowledge or consent
7 of such owner, and if the act is committed by any
8 person other than such owner the owner shall establish
9 further that the conveyance was unlawfully in the
10 possession of a person other than the owner in
11 violation of the criminal laws of the United States,
12 or of any state;

13 5. All books, records and research, including formulas,
14 microfilm, tapes and data which are used in violation of the Uniform
15 Controlled Dangerous Substances Act;

16 6. All things of value furnished, or intended to be furnished,
17 in exchange for a controlled dangerous substance in violation of the
18 Uniform Controlled Dangerous Substances Act, all proceeds traceable
19 to such an exchange, and all monies, negotiable instruments, and
20 securities used, or intended to be used, to facilitate any violation
21 of the Uniform Controlled Dangerous Substances Act;

22 7. All monies, coin and currency found in close proximity to
23 any amount of forfeitable substances, to forfeitable drug
24 manufacturing or distribution paraphernalia or to forfeitable

1 records of the importation, manufacture or distribution of
2 substances, which are rebuttably presumed to be forfeitable under
3 the Uniform Controlled Dangerous Substances Act. Provided, however,
4 mere presence or possession of United States monies, coin, currency
5 or debit or credit cards without other indicators shall be
6 insufficient probable cause to justify a seizure of such property.

7 The burden of proof is upon claimants of the property to rebut this
8 presumption;

9 8. All real property, including any right, title, and interest
10 in the whole of any lot or tract of land and any appurtenance or
11 improvement thereto, which is used, or intended to be used, in any
12 manner or part, to commit, or to facilitate the commission of, a
13 violation of the Uniform Controlled Dangerous Substances Act which
14 is punishable by imprisonment for more than one (1) year, except
15 that no property right, title or interest shall be forfeited
16 pursuant to this paragraph, by reason of any act or omission
17 established by the owner thereof to have been committed or omitted
18 without the knowledge or consent of that owner; and

19 9. All weapons possessed, used or available for use in any
20 manner to facilitate a violation of the Uniform Controlled Dangerous
21 Substances Act.

22 B. Any property or thing of value of a person is subject to
23 forfeiture if it is established by a preponderance of the evidence
24 that such property or thing of value was acquired by such person

1 during the period of the violation of the Uniform Controlled
2 Dangerous Substances Act or within a reasonable time after such
3 period and there was no likely source for such property or thing of
4 value other than the violation of the Uniform Controlled Dangerous
5 Substances Act.

6 C. Any property or thing of value of a person is subject to
7 forfeiture if it is established by a preponderance of the evidence
8 that the person has not paid all or part of a fine imposed pursuant
9 to the provisions of Section 2-415 of this title.

10 D. All items forfeited in this section shall be forfeited under
11 the procedures established in Section 2-506 of this title. Whenever
12 any item is forfeited pursuant to this section except for items
13 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous
14 Drugs Control, the Department of Public Safety, the Oklahoma State
15 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
16 Commission, the Department of Corrections, or the Office of the
17 Attorney General, the district court of the district shall order
18 that such item, money, or monies derived from the sale of such item
19 be deposited by the state, county or city law enforcement agency
20 which seized the item in the revolving fund provided for in Section
21 2-506 of this title; provided, such item, money or monies derived
22 from the sale of such item forfeited due to nonpayment of a fine
23 imposed pursuant to the provisions of Section 2-415 of this title
24 shall be apportioned as provided in Section 2-416 of this title.

1 Items, money or monies seized pursuant to subsections A and B of
2 this section shall not be applied or considered toward satisfaction
3 of the fine imposed by Section 2-415 of this title. All raw
4 materials used or intended to be used by persons to unlawfully
5 manufacture or attempt to manufacture any controlled dangerous
6 substance in violation of the Uniform Controlled Dangerous
7 Substances Act shall be summarily forfeited pursuant to the
8 provisions of Section 2-505 of this title.

9 E. All property taken or detained under this section by the
10 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
11 Department of Public Safety, the Oklahoma State Bureau of
12 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
13 the Department of Corrections, or the Office of the Attorney
14 General, shall not be replevable, but shall remain in the custody
15 of the Bureaus, Departments, Commission, or Office, respectively,
16 subject only to the orders and decrees of a court of competent
17 jurisdiction. The Director of the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control, the Commissioner of Public
19 Safety, the Director of the Oklahoma State Bureau of Investigation,
20 the Director of the Alcoholic Beverage Laws Enforcement Commission,
21 the Director of the Department of Corrections, and the Attorney
22 General shall follow the procedures outlined in Section 2-506 of
23 this title dealing with notification of seizure, intent of
24 forfeiture, final disposition procedures, and release to innocent

1 claimants with regard to all property included in this section
2 detained by the Department of Public Safety, the Oklahoma State
3 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
4 Commission, the Department of Corrections, or the Office of the
5 Attorney General. Property taken or detained by the Oklahoma State
6 Bureau of Narcotics and Dangerous Drugs Control, the Department of
7 Public Safety, the Oklahoma State Bureau of Investigation, the
8 Alcoholic Beverage Laws Enforcement Commission, the Department of
9 Corrections, or the Office of the Attorney General shall be disposed
10 of or sold pursuant to the provisions of Section 2-508 of this
11 title. Any money, coins, and currency, taken or detained pursuant
12 to this section may be deposited in an interest bearing account by
13 or at the direction of the State Treasurer if the seizing agency
14 determines the currency is not to be held as evidence. All interest
15 earned on such monies shall be returned to the claimant or forfeited
16 with the money, coins, and currency which was taken or detained as
17 provided by law.

18 F. The proceeds of any forfeiture of items seized by the
19 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
20 be distributed as follows:

21 1. To the bona fide or innocent purchaser, conditional sales
22 vendor or mortgagee of the property, if any, up to the amount of his
23 interest in the property, when the court declaring a forfeiture
24 orders a distribution to such person; and

1 2. The balance to the Bureau of Narcotics Revolving Fund
2 established pursuant to Section 2-107 of this title, provided the
3 Bureau may enter into agreements with municipal, tribal, county,
4 state or federal law enforcement agencies, or other state agencies
5 with CLEET-certified law enforcement officers, assisting in the
6 forfeiture or underlying criminal investigation, to return to such
7 an agency a percentage of ~~said~~ the proceeds.

8 G. Any agency that acquires seized or forfeited property or
9 money shall maintain a true and accurate inventory and record of all
10 such property seized pursuant to this section.

11 SECTION 2. This act shall become effective November 1, 2017.

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