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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3454

02/15/2022

Authored by Scott and Moller

The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act

1.2 relating to judiciary; permitting complaints in certain forfeiture matters to be served

1.3 by certified mail; permitting statements of claim in certain forfeiture matters to be

1.4 served pursuant to the Rules of Conciliation Court Procedure; amending Minnesota

1.5 Statutes 2021 Supplement, sections 169A.63, subdivision 8; 609.5314, subdivision

1.6 3.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2021 Supplement, section 169A.63, subdivision 8, is

1.9 amended to read:

1.10 Subd. 8. **Administrative forfeiture procedure.** (a) A motor vehicle used to commit a

1.11 designated offense or used in conduct resulting in a designated license revocation is subject

1.12 to administrative forfeiture under this subdivision.

1.13 (b) Within 60 days from when a motor vehicle is seized under subdivision 2, or within

1.14 a reasonable time after seizure, the appropriate agency shall serve the driver or operator of

1.15 the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when

1.16 a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all

1.17 persons known to have an ownership, possessory, or security interest in the vehicle must

1.18 be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to

1.19 be registered under chapter 168, the notification to a person known to have a security interest

1.20 in the vehicle is required only if the vehicle is registered under chapter 168 and the interest

1.21 is listed on the vehicle's title. Upon motion by the appropriate agency or prosecuting

1.22 authority, a court may extend the time period for sending notice for a period not to exceed

1.23 90 days for good cause shown. Notice mailed by certified mail to the address shown in

1.24 Department of Public Safety records is sufficient notice to the registered owner of the

2.1 vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed
2.2 by certified mail to the address shown in the applicable filing or registration for the vehicle
2.3 is sufficient notice to a person known to have an ownership, possessory, or security interest
2.4 in the vehicle. Otherwise, notice may be given in the manner provided by law for service
2.5 of a summons in a civil action.

2.6 (c) The notice must be in writing and contain:

2.7 (1) a description of the vehicle seized;

2.8 (2) the date of seizure; and

2.9 (3) notice of the right to obtain judicial review of the forfeiture and of the procedure for
2.10 obtaining that judicial review, printed in English. This requirement does not preclude the
2.11 appropriate agency from printing the notice in other languages in addition to English.

2.12 Substantially the following language must appear conspicuously in the notice:

2.13 "WARNING: If you were the person arrested when the property was seized, you will
2.14 automatically lose the above-described property and the right to be heard in court if you do
2.15 not file a lawsuit and serve the prosecuting authority within 60 days. You may file your
2.16 lawsuit in conciliation court if the property is worth \$15,000 or less; otherwise, you must
2.17 file in district court. You do not have to pay a filing fee for your lawsuit.

2.18 WARNING: If you have an ownership interest in the above-described property and were
2.19 not the person arrested when the property was seized, you will automatically lose the
2.20 above-described property and the right to be heard in court if you do not notify the
2.21 prosecuting authority of your interest in writing within 60 days."

2.22 (d) If notice is not sent in accordance with paragraph (b), and no time extension is granted
2.23 or the extension period has expired, the appropriate agency shall return the vehicle to the
2.24 owner. An agency's return of property due to lack of proper notice does not restrict the
2.25 agency's authority to commence a forfeiture proceeding at a later time.

2.26 (e) Within 60 days following service of a notice of seizure and forfeiture under this
2.27 subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The
2.28 demand must be in the form of a civil complaint and must be filed with the court
2.29 administrator in the county in which the seizure occurred, together with proof of service of
2.30 a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture.
2.31 The claimant may serve the complaint by certified mail or any means permitted by court
2.32 rules. If the value of the seized property is \$15,000 or less, the claimant may file an action
2.33 in conciliation court for recovery of the seized vehicle. A copy of the conciliation court

3.1 statement of claim ~~must~~ may be served personally or ~~by mail~~ as permitted by the Rules of
 3.2 Conciliation Court Procedure on the prosecuting authority having jurisdiction over the
 3.3 forfeiture within 60 days following service of the notice of seizure and forfeiture under this
 3.4 subdivision. The claimant does not have to pay the court filing fee.

3.5 No responsive pleading is required of the prosecuting authority and no court fees may
 3.6 be charged for the prosecuting authority's appearance in the matter. The prosecuting authority
 3.7 may appear for the appropriate agency. Pleadings, filings, and methods of service are
 3.8 governed by the Rules of Civil Procedure and, where applicable, by the Rules of Conciliation
 3.9 Court Procedure.

3.10 (f) The complaint must be captioned in the name of the claimant as plaintiff and the
 3.11 seized vehicle as defendant, and must state with specificity the grounds on which the claimant
 3.12 alleges the vehicle was improperly seized, the claimant's interest in the vehicle seized, and
 3.13 any affirmative defenses the claimant may have. Notwithstanding any law to the contrary,
 3.14 an action for the return of a vehicle seized under this section may not be maintained by or
 3.15 on behalf of any person who has been served with a notice of seizure and forfeiture unless
 3.16 the person has complied with this subdivision.

3.17 (g) If the claimant makes a timely demand for a judicial determination under this
 3.18 subdivision, the forfeiture proceedings must be conducted as provided under subdivision
 3.19 9.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 2. Minnesota Statutes 2021 Supplement, section 609.5314, subdivision 3, is amended
 3.22 to read:

3.23 Subd. 3. **Judicial determination.** (a) Within 60 days following service of a notice of
 3.24 seizure and forfeiture under this section, a claimant may file a demand for a judicial
 3.25 determination of the forfeiture. The demand must be in the form of a civil complaint and
 3.26 must be filed with the court administrator in the county in which the seizure occurred,
 3.27 together with proof of service of a copy of the complaint on the prosecuting authority for
 3.28 that county. The claimant may serve the complaint on the prosecuting authority by certified
 3.29 mail or any means permitted by court rules. If the value of the seized property is \$15,000
 3.30 or less, the claimant may file an action in conciliation court for recovery of the seized
 3.31 property. A copy of the conciliation court statement of claim may be served personally or
 3.32 as permitted by the Rules of Conciliation Court Procedure on the prosecuting authority
 3.33 having jurisdiction over the forfeiture within 60 days following service of the notice of
 3.34 seizure and forfeiture under this subdivision. The claimant does not have to pay the court

4.1 filing fee. No responsive pleading is required of the prosecuting authority and no court fees
4.2 may be charged for the prosecuting authority's appearance in the matter. The district court
4.3 administrator shall schedule the hearing as soon as practicable after, and in any event no
4.4 later than 90 days following, the conclusion of the criminal prosecution. The proceedings
4.5 are governed by the Rules of Civil Procedure and, where applicable, by the Rules of
4.6 Conciliation Court Procedure.

4.7 (b) The complaint must be captioned in the name of the claimant as plaintiff and the
4.8 seized property as defendant, and must state with specificity the grounds on which the
4.9 claimant alleges the property was improperly seized and the plaintiff's interest in the property
4.10 seized. Notwithstanding any law to the contrary, an action for the return of property seized
4.11 under this section may not be maintained by or on behalf of any person who has been served
4.12 with a notice of seizure and forfeiture unless the person has complied with this subdivision.

4.13 (c) If the claimant makes a timely demand for judicial determination under this
4.14 subdivision, the appropriate agency must conduct the forfeiture under section 609.531,
4.15 subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3,
4.16 apply to the judicial determination.

4.17 (d) If a demand for judicial determination of an administrative forfeiture is filed under
4.18 this subdivision and the court orders the return of the seized property, the court may order
4.19 sanctions under section 549.211. If the court orders payment of these costs, they must be
4.20 paid from forfeited money or proceeds from the sale of forfeited property from the appropriate
4.21 law enforcement and prosecuting agencies in the same proportion as they would be distributed
4.22 under section 609.5315, subdivision 5.

4.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.