

1 ENGROSSED SENATE
2 BILL NO. 1688

By: Standridge of the Senate

3 and

4 West (Kevin) of the House

5
6 [civil asset forfeiture - property subject to
7 forfeiture - certain illegal purposes - effective
8 date]
9

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

11 SECTION 1. AMENDATORY 63 O.S. 2021, Section 2-503, is
12 amended to read as follows:

13 Section 2-503. A. The following shall be subject to
14 forfeiture:

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

19 2. All raw materials, products and equipment of any kind and
20 all drug paraphernalia as defined by the Uniform Controlled
21 Dangerous Substances Act, which are used, or intended for use, in
22 manufacturing, compounding, processing, delivering, importing or
23 exporting, injecting, ingesting, inhaling, or otherwise introducing
24 into the human body any controlled dangerous substance or synthetic

1 controlled substance in violation of the provisions of the Uniform
2 Controlled Dangerous Substances Act;

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

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

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

23 b. no conveyance shall be forfeited under the provisions
24 of this section by reason of any act or omission

1 established by the owner thereof to have been
2 committed or omitted without the knowledge or consent
3 of such owner, and if the act is committed by any
4 person other than such owner the owner shall establish
5 further that the conveyance was unlawfully in the
6 possession of a person other than the owner in
7 violation of the criminal laws of the United States,
8 or of any state;

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

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

18 7. All monies, coin and currency found in close proximity to
19 any amount of forfeitable substances, to forfeitable drug
20 manufacturing or distribution paraphernalia or to forfeitable
21 records of the importation, manufacture or distribution of
22 substances, which are rebuttably presumed to be forfeitable under
23 the Uniform Controlled Dangerous Substances Act. The burden of
24 proof is upon claimants of the property to rebut this presumption;

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

11 9. All weapons possessed, used or available for use in any
12 manner to facilitate a violation of the Uniform Controlled Dangerous
13 Substances Act; and

14 10. Property possessed, used, or available for use in the
15 cultivation, distribution, processing, sale, or transfer of
16 marijuana by any person or business entity not licensed by the
17 Oklahoma Medical Marijuana Authority or otherwise in violation of
18 the medical marijuana laws in this state.

19 B. Any property or thing of value of a person is subject to
20 forfeiture if it is established by a preponderance of the evidence
21 that such property or thing of value was acquired by such person
22 during the period of the violation of the Uniform Controlled
23 Dangerous Substances Act or within a reasonable time after such
24 period and there was no likely source for such property or thing of

1 value other than the violation of the Uniform Controlled Dangerous
2 Substances Act.

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

7 D. All items forfeited in this section shall be forfeited under
8 the procedures established in Section 2-506 of this title. Whenever
9 any item is forfeited pursuant to this section except for items
10 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous
11 Drugs Control, the Department of Public Safety, the Oklahoma State
12 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
13 Commission, the Department of Corrections, or the Office of the
14 Attorney General, the district court of the district shall order
15 that such item, money, or monies derived from the sale of such item
16 be deposited by the state, county or city law enforcement agency
17 which seized the item in the revolving fund provided for in Section
18 2-506 of this title; provided, such item, money or monies derived
19 from the sale of such item forfeited due to nonpayment of a fine
20 imposed pursuant to the provisions of Section 2-415 of this title
21 shall be apportioned as provided in Section 2-416 of this title.
22 Items, money or monies seized pursuant to subsections A and B of
23 this section shall not be applied or considered toward satisfaction
24 of the fine imposed by Section 2-415 of this title. All raw

1 materials used or intended to be used by persons to unlawfully
2 manufacture or attempt to manufacture any controlled dangerous
3 substance in violation of the Uniform Controlled Dangerous
4 Substances Act shall be summarily forfeited pursuant to the
5 provisions of Section 2-505 of this title.

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

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

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

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

22 2. The balance to the Bureau of Narcotics Revolving Fund
23 established pursuant to Section 2-107 of this title, provided the
24 Bureau may enter into agreements with municipal, tribal, county,

1 state or federal law enforcement agencies, or other state agencies
2 with CLEET-certified law enforcement officers, assisting in the
3 forfeiture or underlying criminal investigation, to return to such
4 an agency a percentage of said proceeds.

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

8 SECTION 2. This act shall become effective November 1, 2022.

9 Passed the Senate the 23rd day of March, 2022.

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11 _____
12 Presiding Officer of the Senate

13 Passed the House of Representatives the ____ day of _____,
14 2022.

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16 _____
17 Presiding Officer of the House
18 of Representatives