

1 STATE OF OKLAHOMA

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

3 SENATE BILL 267

By: Dahm

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5  
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.

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

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

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

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

23 2. All raw materials, products and equipment of any kind and  
24 all drug paraphernalia as defined by the Uniform Controlled  
25 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 repleviable, 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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