

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2996

By: Newell

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; amending
8 63 O.S. 2011, Section 2-503, which relates to the
9 Uniform Controlled Dangerous Substances Act; making
certain property subject to forfeiture; and providing
an effective date.

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

13 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-503, is
14 amended to read as follows:

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

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

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

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

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

8 4. All conveyances, including conveyances that have an
9 aftermarket false or hidden compartment that is intended or designed
10 for use to conceal, hide or otherwise prevent the discovery of any
11 controlled dangerous substance or proceeds obtained from a violation
12 of the Uniform Controlled Dangerous Substances Act, aircraft,
13 vehicles, vessels, or farm implements which are used to transport,
14 conceal, or cultivate for the purpose of distribution as defined in
15 the Uniform Controlled Dangerous Substances Act, or which are used
16 in any manner to facilitate the transportation or cultivation for
17 the purpose of sale or receipt of property described in paragraphs 1
18 or 2 of this subsection or when the property described in paragraphs
19 1 ~~or~~, 2 or 6 of this subsection is unlawfully possessed by an
20 occupant thereof, except that:

21 a. no conveyance used by a person as a common carrier in
22 the transaction of business as a common carrier shall
23 be forfeited under the provisions of the Uniform
24 Controlled Dangerous Substances Act unless it shall

1 appear that the owner or other person in charge of
2 such conveyance was a consenting party or privy to a
3 violation of the Uniform Controlled Dangerous
4 Substances Act, and

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

15 As used in this paragraph, "false or hidden compartment" includes,
16 but is not limited to false, altered or modified fuel tanks,
17 original factory equipment that is modified, altered or changed or a
18 compartment, space or box that is added to, fabricated, made or
19 created from existing compartments, spaces or boxes within a
20 vehicle;

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

1 6. All things of value furnished, or intended to be furnished,
2 in exchange for a controlled dangerous substance in violation of the
3 Uniform Controlled Dangerous Substances Act, all proceeds traceable
4 to such an exchange, and all monies, negotiable instruments, and
5 securities used, or intended to be used, to facilitate any violation
6 of the Uniform Controlled Dangerous Substances Act;

7 7. All monies, coin and currency found in close proximity to
8 any amount of forfeitable substances, to forfeitable drug
9 manufacturing or distribution paraphernalia or to forfeitable
10 records of the importation, manufacture or distribution of
11 substances, which are rebuttably presumed to be forfeitable under
12 the Uniform Controlled Dangerous Substances Act. The burden of
13 proof is upon claimants of the property to rebut this presumption;

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

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

4 B. Any property or thing of value of a person is subject to
5 forfeiture if it is established by a preponderance of the evidence
6 that such property or thing of value was acquired by such person
7 during the period of the violation of the Uniform Controlled
8 Dangerous Substances Act or within a reasonable time after such
9 period and there was no likely source for such property or thing of
10 value other than the violation of the Uniform Controlled Dangerous
11 Substances Act.

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

16 D. All items forfeited in this section shall be forfeited under
17 the procedures established in Section 2-506 of this title. Whenever
18 any item is forfeited pursuant to this section except for items
19 confiscated by the Oklahoma State Bureau of Narcotics and Dangerous
20 Drugs Control, the Department of Public Safety, the Oklahoma State
21 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
22 Commission, the Department of Corrections, or the Office of the
23 Attorney General, the district court of the district shall order
24 that such item, money, or monies derived from the sale of such item

1 be deposited by the state, county or city law enforcement agency
2 which seized the item in the revolving fund provided for in Section
3 2-506 of this title; provided, such item, money or monies derived
4 from the sale of such item forfeited due to nonpayment of a fine
5 imposed pursuant to the provisions of Section 2-415 of this title
6 shall be apportioned as provided in Section 2-416 of this title.
7 Items, money or monies seized pursuant to subsections A and B of
8 this section shall not be applied or considered toward satisfaction
9 of the fine imposed by Section 2-415 of this title. All raw
10 materials used or intended to be used by persons to unlawfully
11 manufacture or attempt to manufacture any controlled dangerous
12 substance in violation of the Uniform Controlled Dangerous
13 Substances Act shall be summarily forfeited pursuant to the
14 provisions of Section 2-505 of this title.

15 E. All property taken or detained under this section by the
16 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the
17 Department of Public Safety, the Oklahoma State Bureau of
18 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
19 the Department of Corrections, or the Office of the Attorney
20 General, shall not be repleviable, but shall remain in the custody
21 of the Bureaus, Departments, Commission, or Office, respectively,
22 subject only to the orders and decrees of a court of competent
23 jurisdiction. The Director of the Oklahoma State Bureau of
24 Narcotics and Dangerous Drugs Control, the Commissioner of Public

1 Safety, the Director of the Oklahoma State Bureau of Investigation,
2 the Director of the Alcoholic Beverage Laws Enforcement Commission,
3 the Director of the Department of Corrections, and the Attorney
4 General shall follow the procedures outlined in Section 2-506 of
5 this title dealing with notification of seizure, intent of
6 forfeiture, final disposition procedures, and release to innocent
7 claimants with regard to all property included in this section
8 detained by the Department of Public Safety, the Oklahoma State
9 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
10 Commission, the Department of Corrections, or the Office of the
11 Attorney General. Property taken or detained by the Oklahoma State
12 Bureau of Narcotics and Dangerous Drugs Control, the Department of
13 Public Safety, the Oklahoma State Bureau of Investigation, the
14 Alcoholic Beverage Laws Enforcement Commission, the Department of
15 Corrections, or the Office of the Attorney General shall be disposed
16 of or sold pursuant to the provisions of Section 2-508 of this
17 title. Any money, coins, and currency, taken or detained pursuant
18 to this section may be deposited in an interest bearing account by
19 or at the direction of the State Treasurer if the seizing agency
20 determines the currency is not to be held as evidence. All interest
21 earned on such monies shall be returned to the claimant or forfeited
22 with the money, coins, and currency which was taken or detained as
23 provided by law.

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

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

8 2. The balance to the Bureau of Narcotics Revolving Fund
9 established pursuant to Section 2-107 of this title, provided the
10 Bureau may enter into agreements with municipal, tribal, county,
11 state or federal law enforcement agencies, or other state agencies
12 with CLEET-certified law enforcement officers, assisting in the
13 forfeiture or underlying criminal investigation, to return to such
14 an agency a percentage of said proceeds.

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

18 SECTION 2. This act shall become effective November 1, 2012.

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20 53-2-9095 GRS 12/21/11

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