

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 869 Session of 2015

INTRODUCED BY FOLMER, WILLIAMS, LEACH, FARNESE, COSTA, MENSCH, WOZNIAK, BARTOLOTTA, HAYWOOD, DINNIMAN AND BLAKE, JUNE 4, 2015

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, SEPTEMBER 26, 2016

AN ACT

1 ~~Amending Titles 4 (Amusements), 18 (Crimes and Offenses), 30 <--~~  
2 ~~(Fish), 42 (Judiciary and Judicial Procedure) and 75~~  
3 ~~(Vehicles) of the Pennsylvania Consolidated Statutes, in~~  
4 ~~administration and enforcement relating to gaming, further~~  
5 ~~providing for prohibited acts and penalties; in inchoate~~  
6 ~~crimes, further providing for the offense of manufacture,~~  
7 ~~distribution, use of possession of devices for theft of~~  
8 ~~telecommunication services; in criminal homicide, further~~  
9 ~~providing for drug delivery resulting in death; in loss of~~  
10 ~~property rights relating to sexual offenses, further~~  
11 ~~providing for general rule; repealing provisions relating to~~  
12 ~~process and seizure, to custody of property and to disposal~~  
13 ~~of property; in forgery and other fraudulent practices,~~  
14 ~~further providing for the offenses of copying and recording~~  
15 ~~devices and of trademark counterfeiting; in riot, disorderly~~  
16 ~~conduct and related offenses, further providing for the~~  
17 ~~offense of gambling devices, gambling, etc; in wiretapping~~  
18 ~~and electronic surveillance, further providing for seizure~~  
19 ~~and forfeiture of electronic mechanical or other devices; in~~  
20 ~~minors, further providing for sentencing and penalties for~~  
21 ~~trafficking drugs to minors; in nuisances, further providing~~  
22 ~~for the offense of scattering rubbish; in other offenses,~~  
23 ~~further providing for drug trafficking sentencing and~~  
24 ~~penalties; in vehicle chop shop and illegally obtained and~~  
25 ~~altered property, further providing for loss of property~~  
26 ~~rights to Commonwealth; repealing provisions relating to~~  
27 ~~procedure with respect to seized property subject to liens~~  
28 ~~and rights of lienholders; in enforcement relating to Fish~~  
29 ~~and Boat Code, further providing for forfeiture of fish and~~  
30 ~~devices; adding provisions relating to asset forfeiture in~~  
31 ~~Judicial Code; in forfeitures, further providing for~~  
32 ~~controlled substances forfeiture and procedure with respect~~  
33 ~~to seized property subject to liens and rights of~~

1 ~~lienholders; in size, weight and load relating to Vehicle~~  
2 ~~Code, further providing for transporting foodstuffs in~~  
3 ~~vehicles used to transport waste; in liquid fuels and fuel~~  
4 ~~use tax enforcement, further providing for forfeitures,~~  
5 ~~process and procedures and for disposition of fines and~~  
6 ~~forfeitures; and making repeals of provisions of the Liquor~~  
7 ~~Code, the Tax Reform Code of 1971 and another act relating to~~  
8 ~~certain forfeiture of property.~~ AMENDING TITLES 4 <--

9 (AMUSEMENTS), 18 (CRIMES AND OFFENSES), 30 (FISH), 42  
10 (JUDICIARY AND JUDICIAL PROCEDURE) AND 75 (VEHICLES) OF THE  
11 PENNSYLVANIA CONSOLIDATED STATUTES, IN ADMINISTRATION AND  
12 ENFORCEMENT RELATING TO GAMING, FURTHER PROVIDING FOR  
13 PROHIBITED ACTS AND PENALTIES; IN INCHOATE CRIMES, FURTHER  
14 PROVIDING FOR THE OFFENSE OF MANUFACTURE, DISTRIBUTION, USE  
15 OR POSSESSION OF DEVICES FOR THEFT OF TELECOMMUNICATIONS  
16 SERVICES; IN ASSAULT, FURTHER PROVIDING FOR THE OFFENSE OF  
17 TERRORISM; IN LOSS OF PROPERTY RIGHTS RELATING TO SEXUAL  
18 OFFENSES, FURTHER PROVIDING FOR GENERAL RULE, REPEALING  
19 PROVISIONS RELATING TO PROCESS AND SEIZURE, TO CUSTODY OF  
20 PROPERTY AND TO DISPOSAL OF PROPERTY; IN FORGERY AND  
21 FRAUDULENT PRACTICES, FURTHER PROVIDING FOR THE OFFENSES OF  
22 COPYING AND RECORDING DEVICES AND FOR TRADEMARK  
23 COUNTERFEITING; IN RIOT, DISORDERLY CONDUCT AND RELATED  
24 OFFENSES, FURTHER PROVIDING FOR THE OFFENSE OF GAMBLING  
25 DEVICES, GAMBLING, ETC.; IN WIRETAPPING AND ELECTRONIC  
26 SURVEILLANCE, FURTHER PROVIDING FOR SEIZURE AND FORFEITURE OF  
27 ELECTRONIC, MECHANICAL OR OTHER DEVICES; IN MINORS, FURTHER  
28 PROVIDING FOR SENTENCING AND PENALTIES FOR TRAFFICKING DRUGS  
29 TO MINORS; IN NUISANCES, FURTHER PROVIDING FOR THE OFFENSE OF  
30 SCATTERING RUBBISH; IN OTHER OFFENSES, FURTHER PROVIDING FOR  
31 DRUG TRAFFICKING SENTENCING AND PENALTIES; IN VEHICLE CHOP  
32 SHOP AND ILLEGALLY OBTAINED AND ALTERED PROPERTY, FURTHER  
33 PROVIDING FOR LOSS OF PROPERTY RIGHTS TO COMMONWEALTH AND  
34 REPEALING PROVISIONS RELATING TO PROCEDURE WITH RESPECT TO  
35 SEIZED PROPERTY SUBJECT TO LIENS AND RIGHTS OF LIENHOLDERS;  
36 IN ENFORCEMENT RELATING TO FISH AND BOAT CODE, FURTHER  
37 PROVIDING FOR FORFEITURE OF FISH AND DEVICES; IN ACTIONS,  
38 PROCEEDINGS AND OTHER MATTERS GENERALLY RELATING TO JUDICIAL  
39 CODE, ADDING PROVISIONS RELATING TO FORFEITURE OF ASSETS; IN  
40 FORFEITURES, FURTHER PROVIDING FOR CONTROLLED SUBSTANCES  
41 FORFEITURE AND REPEALING PROVISIONS RELATING TO TERRORISM  
42 FORFEITURE AND TO PROCEDURE WITH RESPECT TO SEIZED PROPERTY  
43 SUBJECT TO LIENS AND RIGHTS OF LIENHOLDERS; IN SIZE, WEIGHT  
44 AND LOAD RELATING TO VEHICLE CODE, FURTHER PROVIDING FOR  
45 TRANSPORTING FOODSTUFFS IN VEHICLES USED TO TRANSPORT WASTE;  
46 IN LIQUID FUELS AND FUEL USE TAX ENFORCEMENT, FURTHER  
47 PROVIDING FOR FORFEITURES AND PROCESS AND PROCEDURES AND FOR  
48 DISPOSITION OF FINES AND FORFEITURES; PROVIDING FOR CONDUCT  
49 OF FORFEITURE; AND MAKING REPEALS OF PROVISIONS OF THE LIQUOR  
50 CODE, THE TAX REFORM CODE OF 1971 AND ANOTHER ACT RELATING TO  
51 CERTAIN FORFEITURE OF PROPERTY.

52 The General Assembly of the Commonwealth of Pennsylvania

53 hereby enacts as follows:

54 ~~Section 1. Section 1518(f) of Title 4 of the Pennsylvania~~ <--

55 ~~Consolidated Statutes is amended to read:~~

1       ~~§ 1518. Prohibited acts; penalties.~~

2       ~~\* \* \*~~

3       ~~(f) Property subject to seizure, confiscation, destruction~~  
4 ~~or forfeiture. Any equipment, device or apparatus, money,~~  
5 ~~material, gaming proceeds or substituted proceeds or real or~~  
6 ~~personal property used, obtained or received or any attempt to~~  
7 ~~use, obtain or receive the device, apparatus, money, material,~~  
8 ~~proceeds or real or personal property in violation of this part~~  
9 ~~shall be subject to [seizure, confiscation, destruction or~~  
10 ~~forfeiture] the provisions of 42 Pa.C.S. Ch. 58 (relating to~~  
11 ~~asset forfeiture).~~

12       ~~Section 2. Sections 910(c.1), 2506(f) and 3141 of Title 18~~  
13 ~~are amended to read:~~

14       ~~§ 910. Manufacture, distribution, use or possession of devices~~  
15               ~~for theft of telecommunications services.~~

16       ~~\* \* \*~~

17       ~~(c.1) Forfeiture of unlawful telecommunication devices.~~  
18 ~~Upon conviction of a defendant under this section, the court~~  
19 ~~may, in addition to any other sentence authorized by law, direct~~  
20 ~~that the defendant forfeit any unlawful telecommunication~~  
21 ~~devices in the defendant's possession or control which were~~  
22 ~~involved in the violation for which the defendant was convicted.~~  
23 ~~The forfeiture shall be conducted in accordance with 42 Pa.C.S.~~  
24 ~~Ch. 58 (relating to asset forfeiture).~~

25       ~~\* \* \*~~

26       ~~§ 2506. Drug delivery resulting in death.~~

27       ~~\* \* \*~~

28       ~~(f) Forfeiture. Assets against which [a forfeiture~~  
29 ~~petition] an information or indictment seeking forfeiture has~~  
30 ~~been filed and is pending or against which the Commonwealth has~~

1 ~~indicated an intention to file [a forfeiture petition] an~~  
2 ~~information or indictment seeking a forfeiture shall not be~~  
3 ~~subject to a fine. Nothing in this section shall prevent a fine~~  
4 ~~from being imposed on assets which have been subject to an~~  
5 ~~unsuccessful forfeiture [petition] proceeding.~~

6 ~~§ 3141. General rule.~~

7 ~~A person:~~

8 ~~(1) convicted under section 3121 (relating to rape),~~  
9 ~~3122.1 (relating to statutory sexual assault), 3123 (relating~~  
10 ~~to involuntary deviate sexual intercourse), 3124.1 (relating~~  
11 ~~to sexual assault), 3125 (relating to aggravated indecent~~  
12 ~~assault) or 3126 (relating to indecent assault); or~~

13 ~~(2) required to register with the Pennsylvania State~~  
14 ~~Police under 42 Pa.C.S. Ch. 97 Subch. II (relating to~~  
15 ~~registration of sexual offenders);~~

16 ~~may be required to forfeit property rights in any property or~~  
17 ~~assets used to implement or facilitate commission of the crime~~  
18 ~~or crimes of which the person has been convicted. [Such property~~  
19 ~~may include, but is not limited to, a computer or computers,~~  
20 ~~telephone equipment, firearms, licit or illicit prescription~~  
21 ~~drugs or controlled substances, a motor vehicle or such other~~  
22 ~~property or assets as determined by the court of common pleas to~~  
23 ~~have facilitated the person's criminal misconduct.] The~~  
24 ~~forfeiture shall be conducted in accordance with 42 Pa.C.S. Ch.~~  
25 ~~58 (relating to asset forfeiture).~~

26 ~~Section 3. Sections 3142, 3143 and 3144 of Title 18 are~~  
27 ~~repealed:~~

28 ~~{§ 3142. Process and seizure.~~

29 ~~(a) Seizure. Property subject to forfeiture under this~~  
30 ~~section may be seized by law enforcement authority upon process~~

1 ~~issued by the court of common pleas having jurisdiction over the~~  
2 ~~person or property.~~

3 ~~(b) Seizure without process. Seizure without process may be~~  
4 ~~made if the seizure is incident to an arrest or a search under a~~  
5 ~~search warrant and there is probable cause to be believe that~~  
6 ~~the property was or is material to the charges for which the~~  
7 ~~arrest or search warrant was issued. In seizures without~~  
8 ~~process, proceedings for the issuance thereof shall be~~  
9 ~~instituted immediately.~~

10 ~~(c) Return of property. Property belonging to someone other~~  
11 ~~than the convicted sex offender or registrant shall be returned~~  
12 ~~if the offense was committed without the knowledge or consent of~~  
13 ~~the owner.~~

14 ~~§ 3143. Custody of property.~~

15 ~~Property taken or detained under this subchapter is deemed to~~  
16 ~~be the property of the law enforcement authority having custody~~  
17 ~~thereof and is subject only to the court of common pleas having~~  
18 ~~jurisdiction over the criminal or forfeiture proceedings, the~~  
19 ~~district attorney in the matter or the Attorney General.~~

20 ~~§ 3144. Disposal of property.~~

21 ~~Property taken or detained pursuant to the provisions of this~~  
22 ~~subchapter shall be sold in the manner of property forfeited~~  
23 ~~under 42 Pa.C.S. Ch. 68 (relating to forfeitures). The net~~  
24 ~~proceeds, as determined by the law enforcement authority having~~  
25 ~~custody thereof, shall be utilized for investigation or~~  
26 ~~prosecution of sexual offenses or donated to nonprofit~~  
27 ~~charitable institutions which provide counseling and other~~  
28 ~~assistance to victims of sexual offenses.]~~

29 ~~Section 4. Sections 4116(i), 4119(f)(1) and (2)(i), 5513(b),~~  
30 ~~5707, 6314(f), 6501(b)(5) and (d), 7508(e) and 7707 of Title 18~~

1 ~~are amended to read:~~

2 ~~§ 4116. Copying, recording devices.~~

3 ~~\* \* \*~~

4 ~~(i) Forfeiture.~~

5 ~~(1) No property right shall exist in any property used~~  
6 ~~or intended for use in the commission of a violation of this~~  
7 ~~section or in any proceeds traceable to a violation of this~~  
8 ~~section, and the same shall be deemed contraband and~~  
9 ~~forfeited in accordance with the provisions [set forth in~~  
10 ~~section 6501(d) (relating to scattering rubbish)] of 42~~  
11 ~~Pa.C.S. Ch. 58 (relating to asset forfeiture).~~

12 ~~{(2) Property and proceeds found in close proximity to~~  
13 ~~illegally recorded devices shall be rebuttably presumed to be~~  
14 ~~used or intended for use to facilitate a violation of this~~  
15 ~~section.}~~

16 ~~(3) The provisions of this subsection shall not, in any~~  
17 ~~way, limit the right of the Commonwealth to exercise any~~  
18 ~~rights or remedies otherwise provided by law.~~

19 ~~§ 4119. Trademark counterfeiting.~~

20 ~~\* \* \*~~

21 ~~(f) Seizure, forfeiture and disposition.~~

22 ~~(1) Any items bearing a counterfeit mark, any property~~  
23 ~~constituting or derived from any proceeds obtained[, directly~~  
24 ~~or indirectly,] as the result of an offense under this~~  
25 ~~section and all personal property, including, but not limited~~  
26 ~~to, any items, objects, tools, machines, equipment,~~  
27 ~~instrumentalities or vehicles of any kind, used in connection~~  
28 ~~with a violation of this section shall be seized by a law~~  
29 ~~enforcement officer.~~

30 ~~(2) (i) All seized personal property and property~~

1 ~~constituting or derived from any proceeds~~ referenced in  
2 ~~paragraph (1) shall be forfeited in accordance with [the~~  
3 ~~procedures set forth in section 6501(d) (relating to~~  
4 ~~scattering rubbish)] 42 Pa.C.S. Ch. 58 (relating to asset  
5 forfeiture).~~

6 \* \* \*

7 ~~§ 5513. Gambling devices, gambling, etc.~~

8 \* \* \*

9 ~~(b) Confiscation of gambling devices. Any gambling device~~  
10 ~~possessed or used in violation of the provisions of subsection~~  
11 ~~(a) of this section shall be seized and forfeited to the~~  
12 ~~Commonwealth. [All provisions of law relating to the seizure,~~  
13 ~~summary and judicial forfeiture, and condemnation of~~  
14 ~~intoxicating liquor shall apply to seizures and forfeitures~~  
15 ~~under the provisions of this section.] The forfeiture shall be  
16 conducted in accordance with 42 Pa.C.S. Ch. 58 (relating to  
17 asset forfeiture).~~

18 \* \* \*

19 ~~§ 5707. Seizure and forfeiture of electronic, mechanical or~~  
20 ~~other devices.~~

21 ~~Any electronic, mechanical or other device possessed, used,~~  
22 ~~sent, distributed, manufactured, or assembled in violation of~~  
23 ~~this chapter is hereby declared to be contraband and may be~~  
24 ~~seized and forfeited to the Commonwealth in accordance with 42  
25 Pa.C.S. Ch. 58 (relating to asset forfeiture).~~

26 ~~§ 6314. Sentencing and penalties for trafficking drugs to~~  
27 ~~minors.~~

28 \* \* \*

29 ~~(f) Forfeiture. Assets against which [a forfeiture~~  
30 ~~petition] an information or indictment seeking forfeiture has~~

1 ~~been filed and is pending or against which the Commonwealth has~~  
2 ~~indicated an intention to file [a forfeiture petition] an~~  
3 ~~information of indictment seeking forfeiture shall not be~~  
4 ~~subject to a fine under this section.~~

5 \* \* \*

6 ~~§ 6501. Scattering rubbish.~~

7 \* \* \*

8 ~~(b) Penalty.—~~

9 \* \* \*

10 ~~(5) Any vehicle, equipment or conveyance, including any~~  
11 ~~private automobile and small truck, used for the~~  
12 ~~transportation or disposal of trash, garbage or debris in the~~  
13 ~~commission of a second or subsequent offense under subsection~~  
14 ~~(a)(3) may be deemed contraband and forfeited in accordance~~  
15 ~~with [the provisions set forth in this section] 42 Pa.C.S.~~  
16 ~~Ch. 58 (relating to asset forfeiture).~~

17 \* \* \*

18 ~~{(d) Forfeiture.—~~

19 ~~(1) Property subject to forfeiture under this section~~  
20 ~~may be seized by the law enforcement authority upon process~~  
21 ~~issued by any court of common pleas having jurisdiction over~~  
22 ~~the property.~~

23 ~~(2) Property taken or detained under this section shall~~  
24 ~~not be subject to replevin but is deemed to be in the custody~~  
25 ~~of the law enforcement authority subject only to the orders~~  
26 ~~and decrees of the court of common pleas having jurisdiction~~  
27 ~~over the forfeiture proceedings and of the district attorney.~~  
28 ~~When property is seized under this section, the law~~  
29 ~~enforcement authority shall place the property under seal and~~  
30 ~~either:~~

1           ~~(i) remove the property to a place designated by it;~~

2           ~~or~~

3           ~~(ii) require that the district attorney take custody~~  
4           ~~of the property and remove it to an appropriate location~~  
5           ~~for disposition in accordance with law.~~

6           ~~(3) Whenever property is forfeited under this section,~~  
7           ~~the property shall be transferred to the custody of the~~  
8           ~~municipal corporation. The municipal corporation shall sell~~  
9           ~~any forfeited property, but the proceeds from any such sale~~  
10           ~~shall be used to pay all proper expenses of the proceedings~~  
11           ~~for forfeiture and sale, including expenses of seizure,~~  
12           ~~maintenance of custody, advertising and court costs. The~~  
13           ~~balance of the proceeds shall be used for the enforcement of~~  
14           ~~this act.~~

15           ~~(4) The proceedings for the forfeiture or condemnation~~  
16           ~~of property, the sale of which is provided for in this~~  
17           ~~section, shall be in rem, in which the Commonwealth shall be~~  
18           ~~the plaintiff and the property the defendant. A petition~~  
19           ~~shall be filed in the court of common pleas of the judicial~~  
20           ~~district where the property is located, verified by oath or~~  
21           ~~affirmation of an officer or citizen, containing the~~  
22           ~~following:~~

23           ~~(i) A description of the property seized.~~

24           ~~(ii) A statement of the time and place where seized.~~

25           ~~(iii) The owner, if known.~~

26           ~~(iv) The person or persons in possession, if known.~~

27           ~~(v) An allegation that the property is subject to~~  
28           ~~forfeiture pursuant to this subsection and an averment of~~  
29           ~~material facts upon which the forfeiture action is based.~~

30           ~~(vi) A prayer for an order of forfeiture that the~~

1 ~~property be adjudged forfeited to the Commonwealth and~~  
2 ~~condemned and be ordered sold according to law, unless~~  
3 ~~cause be shown to the contrary.~~

4 ~~(5) A copy of the petition required under paragraph (4)~~  
5 ~~shall be served personally or by certified mail on the owner~~  
6 ~~or upon the person or persons in possession at the time of~~  
7 ~~the seizure. The copy shall have endorsed a notice, as~~  
8 ~~follows:~~

9 ~~To the Claimant of within Described Property:~~

10 ~~You are required to file an answer to this petition,~~  
11 ~~setting forth your title in, and right to possession of,~~  
12 ~~the property within 30 days from the service hereof, and~~  
13 ~~you are also notified that, if you fail to file the~~  
14 ~~answer, a decree of forfeiture and condemnation will be~~  
15 ~~entered against the property.~~

16 ~~The notice shall be signed by the district attorney, deputy~~  
17 ~~district attorney or assistant district attorney.~~

18 ~~(6) If the owner of the property is unknown or there was~~  
19 ~~no person in possession of the property when seized or if the~~  
20 ~~owner or such person or persons in possession at the time of~~  
21 ~~the seizure cannot be personally served or located within the~~  
22 ~~jurisdiction of the court, notice of the petition shall be~~  
23 ~~given by the Commonwealth through an advertisement in only~~  
24 ~~one newspaper of general circulation published in the county~~  
25 ~~where the property shall have been seized, once a week for~~  
26 ~~two successive weeks. No other advertisement of any sort~~  
27 ~~shall be necessary, any other law to the contrary~~  
28 ~~notwithstanding. The notice shall contain a statement of the~~  
29 ~~seizure of the property with a description of the property~~  
30 ~~and the place and date of seizure and shall direct any~~

1 ~~claimants to the property to file a claim on or before a date~~  
2 ~~given in the notice, which date shall not be less than 30~~  
3 ~~days from the date of the first publication. If no claims are~~  
4 ~~filed within 30 days of publication, the property shall~~  
5 ~~summarily forfeit to the Commonwealth.~~

6 ~~(7) For purposes of this section, the owner or other~~  
7 ~~such person cannot be found in the jurisdiction of the court~~  
8 ~~if:~~

9 ~~(i) a copy of the petition is mailed to the last~~  
10 ~~known address by certified mail and is returned without~~  
11 ~~delivery;~~

12 ~~(ii) personal service is attempted once but cannot~~  
13 ~~be made at the last known address; and~~

14 ~~(iii) a copy of the petition is left at the last~~  
15 ~~known address.~~

16 ~~(8) The notice provisions of this section are~~  
17 ~~automatically waived when the owner, without good cause,~~  
18 ~~fails to appear in court in response to a subpoena on the~~  
19 ~~underlying criminal charges. Forty five days after such a~~  
20 ~~failure to appear, if good cause has not been demonstrated,~~  
21 ~~the property shall summarily forfeit to the Commonwealth.~~

22 ~~(9) Upon the filing of a claim for the property setting~~  
23 ~~forth a right of possession, the case shall be deemed at~~  
24 ~~issue and a time shall be fixed for the hearing.~~

25 ~~(10) At the time of the hearing, if the Commonwealth~~  
26 ~~produces evidence that the property in question was~~  
27 ~~unlawfully used, possessed or otherwise subject to forfeiture~~  
28 ~~under this section, the burden shall be upon the claimant to~~  
29 ~~show:~~

30 ~~(i) That the claimant is the owner of the property~~

1 ~~or the holder of a chattel mortgage or contract of~~  
2 ~~conditional sale thereon.~~

3 ~~(ii) That the claimant lawfully acquired the~~  
4 ~~property.~~

5 ~~(iii) That it was not unlawfully used or possessed~~  
6 ~~by him. In the event that it shall appear that the~~  
7 ~~property was unlawfully used or possessed by a person~~  
8 ~~other than the claimant, then the claimant shall show~~  
9 ~~that the unlawful use or possession was without his~~  
10 ~~knowledge or consent. Such absence of knowledge or~~  
11 ~~consent must be reasonable under the circumstances~~  
12 ~~presented.~~

13 ~~(11) If a person claiming the ownership of or right of~~  
14 ~~possession to or claiming to be the holder of a chattel~~  
15 ~~mortgage or contract of conditional sale upon the property,~~  
16 ~~the disposition of which is provided for in this section,~~  
17 ~~prior to the sale presents a petition to the court alleging~~  
18 ~~over the property lawful ownership, right of possession, a~~  
19 ~~lien or reservation of title and if, upon public hearing, due~~  
20 ~~notice of which having been given to the district attorney,~~  
21 ~~the claimant shall prove by competent evidence to the~~  
22 ~~satisfaction of the court that the property was lawfully~~  
23 ~~acquired, possessed and used by him or, it appearing that the~~  
24 ~~property was unlawfully used by a person other than the~~  
25 ~~claimant, that the unlawful use was without the claimant's~~  
26 ~~knowledge or consent, then the court may order the property~~  
27 ~~returned or delivered to the claimant. Such absence of~~  
28 ~~knowledge or consent must be reasonable under the~~  
29 ~~circumstances presented. Otherwise, it shall be retained for~~  
30 ~~official use or sold in accordance with paragraph (4).]~~

1       ~~\*\*\*~~

2       ~~§ 7508. Drug trafficking sentencing and penalties.~~

3       ~~\*\*\*~~

4       ~~(e) Forfeiture. Assets against which [a forfeiture~~  
5 ~~petition] an information or indictment seeking forfeiture has~~  
6 ~~been filed and is pending or against which the Commonwealth has~~  
7 ~~indicated an intention to file [a forfeiture petition] an~~  
8 ~~information or indictment seeking forfeiture shall not be~~  
9 ~~subject to a fine. Nothing in this section shall prevent a fine~~  
10 ~~from being imposed on assets which have been subject to an~~  
11 ~~unsuccessful forfeiture [petition] proceeding.~~

12       ~~\*\*\*~~

13       ~~§ 7707. Loss of property rights to Commonwealth.~~

14       ~~{(a) Forfeitures generally. The following shall be subject~~  
15 ~~to forfeiture to the Commonwealth, and no property right shall~~  
16 ~~exist in them:~~

17           ~~(1) Any tool, implement or instrumentality, including,~~  
18 ~~but not limited to, a vehicle or vehicle part used or~~  
19 ~~possessed in connection with any violation of this chapter.~~

20           ~~(2) All materials, products and equipment of any kind~~  
21 ~~which are used or intended for use in violation of this~~  
22 ~~chapter.~~

23           ~~(3) All books, records, microfilm, tapes and data which~~  
24 ~~are used or intended for use in violation of this chapter.~~

25           ~~(4) All money, negotiable instruments, securities or~~  
26 ~~other things of value used or intended to be used to~~  
27 ~~facilitate any violation of this chapter and all proceeds~~  
28 ~~traceable to any transactions in violation of this chapter.~~

29           ~~(5) All real property used or intended to be used to~~  
30 ~~facilitate any violation of this chapter, including~~

1 ~~structures or other improvements thereon and including any~~  
2 ~~right, title and interest in the whole or any lot or tract of~~  
3 ~~land and any appurtenances or improvements which are used or~~  
4 ~~intended to be used in any manner or part to commit or to~~  
5 ~~facilitate the commission of a violation of this chapter.~~

6 ~~(b) Exceptions.~~

7 ~~(1) No property shall be forfeited under this section,~~  
8 ~~to the extent of the interest of an owner, by reason of any~~  
9 ~~act or omission established by the owner to have been~~  
10 ~~committed or omitted without the knowledge or consent of that~~  
11 ~~owner.~~

12 ~~(2) No valid lien or encumbrance on real property shall~~  
13 ~~be subject to forfeiture or impairment under this paragraph.~~  
14 ~~A lien which is fraudulent or intended to avoid forfeiture~~  
15 ~~under this section shall be invalid.~~

16 ~~(c) Process and seizure. Property subject to forfeiture~~  
17 ~~under this chapter may be seized by the law enforcement~~  
18 ~~authority upon process issued by a court of common pleas having~~  
19 ~~jurisdiction over the property. Seizure without process may be~~  
20 ~~made if:~~

21 ~~(1) the seizure is incident to an arrest or a search~~  
22 ~~warrant or inspection under 75 Pa.C.S. § 6308 (relating to~~  
23 ~~investigation by police officers) or any other administrative~~  
24 ~~inspection;~~

25 ~~(2) the property subject to seizure has been the subject~~  
26 ~~of a proper judgment in favor of the Commonwealth in a~~  
27 ~~criminal injunction or forfeiture proceeding under this~~  
28 ~~chapter;~~

29 ~~(3) there is probable cause to believe that the property~~  
30 ~~is dangerous to health or safety; or~~

1           ~~(4) there is probable cause to believe that the property~~  
2           ~~has been used or is intended to be used in violation of this~~  
3           ~~chapter.~~

4           ~~(d) Seizure without process. In the event seizure without~~  
5           ~~process occurs as provided in this chapter, proceeding for the~~  
6           ~~issuance thereof shall be instituted forthwith.~~

7           ~~(e) Custody of property. Property taken or detained under~~  
8           ~~this section shall not be subject to replevin but is deemed to~~  
9           ~~be in the custody of the law enforcement authority, subject only~~  
10           ~~to the orders and decrees of the court of common pleas having~~  
11           ~~jurisdiction over the forfeiture proceedings and of the district~~  
12           ~~attorney or the Office of Attorney General. When property is~~  
13           ~~seized under this chapter, the law enforcement authority shall~~  
14           ~~place the property under seal and either:~~

15                   ~~(1) remove the property to a place designated by it; or~~

16                   ~~(2) require that the district attorney or the Office of~~  
17           ~~Attorney General take custody of the property and remove it~~  
18           ~~to an appropriate location for disposition in accordance with~~  
19           ~~law.~~

20           ~~(f) Use of property held in custody.~~

21                   ~~(1) Whenever property is forfeited under this chapter,~~  
22           ~~the property shall be transferred to:~~

23                           ~~(i) the custody of the district attorney, if the law~~  
24           ~~enforcement authority seizing the property has local or~~  
25           ~~county jurisdiction; or~~

26                           ~~(ii) the Office of Attorney General, if the law~~  
27           ~~enforcement authority seizing the property has Statewide~~  
28           ~~jurisdiction.~~

29                   ~~(2) The district attorney or the Office of Attorney~~  
30           ~~General, where appropriate, may:~~

1           ~~(i) Retain the property for official use.~~

2           ~~(ii) Sell any forfeited property which is not~~  
3           ~~required to be destroyed by law and which is not harmful~~  
4           ~~to the public, but the proceeds from any such sale must~~  
5           ~~be used to pay all proper expenses of the proceeding for~~  
6           ~~forfeiture and sale, including expenses of seizure,~~  
7           ~~maintenance of custody, advertising and court costs. The~~  
8           ~~balance of the proceeds shall be dealt with in accordance~~  
9           ~~with subsections (g) and (h).~~

10          ~~(g) Use of cash, property or proceeds of property. Cash or~~  
11          ~~proceeds of forfeited property transferred to the custody of the~~  
12          ~~district attorney under subsection (f) shall be placed in the~~  
13          ~~operating fund of the county in which the district attorney is~~  
14          ~~elected. The appropriate county authority shall immediately~~  
15          ~~release from the operating fund, without restriction, a like~~  
16          ~~amount for the use of the district attorney in enforcing the~~  
17          ~~criminal laws of this Commonwealth. The entity having budgetary~~  
18          ~~control shall not anticipate future forfeitures or proceeds from~~  
19          ~~such forfeitures in adoption and approval of the budget for the~~  
20          ~~district attorney.~~

21          ~~(h) Distribution of property among law enforcement~~  
22          ~~authorities. If both State and municipal law enforcement~~  
23          ~~authorities were substantially involved in effecting the~~  
24          ~~seizure, the court having jurisdiction over the forfeiture~~  
25          ~~proceedings shall equitably distribute the property between the~~  
26          ~~district attorney and the Office of Attorney General.~~

27          ~~(i) Annual audit of forfeited property. A county shall~~  
28          ~~provide, through the controller, board of auditors or other~~  
29          ~~appropriate auditor and the district attorney, an annual audit~~  
30          ~~of all forfeited property and proceeds obtained under this~~

1 ~~section. The audit shall not be made public but shall be~~  
2 ~~submitted to the Office of Attorney General. The county shall~~  
3 ~~report all forfeited property and proceeds obtained under this~~  
4 ~~section and the disposition thereof to the Office of Attorney~~  
5 ~~General by September 30 of each year.~~

6 ~~(j) Annual report; confidential information regarding~~  
7 ~~property. The Office of Attorney General shall annually submit~~  
8 ~~a report to the Appropriations Committee of the Senate, the~~  
9 ~~Appropriations Committee of the House of Representatives, the~~  
10 ~~Judiciary Committee of the Senate and the Judiciary Committee of~~  
11 ~~the House of Representatives specifying the forfeited property~~  
12 ~~or proceeds thereof obtained under this section. The report~~  
13 ~~shall give an account of all proceeds derived from the sale of~~  
14 ~~forfeited property and the use made of unsold forfeited~~  
15 ~~property. The Office of Attorney General shall adopt procedures~~  
16 ~~and guidelines governing the release of information by the~~  
17 ~~district attorney to protect the confidentiality of forfeited~~  
18 ~~property or proceeds used in ongoing enforcement activities.~~

19 ~~(k) Proceeds and appropriations. The proceeds or future~~  
20 ~~proceeds from forfeited property under this chapter shall be in~~  
21 ~~addition to any appropriation made to the Office of Attorney~~  
22 ~~General.] Forfeiture of property shall be authorized for~~  
23 ~~violation of this chapter and conducted in accordance with 42-~~  
24 ~~Pa.C.S. Ch. 58 (relating to asset forfeiture).~~

25 ~~Section 5. Section 7708 of Title 18 is repealed:~~  
26 ~~[§ 7708. Procedure with respect to seized property subject to~~  
27 ~~liens and rights of lienholders.~~

28 ~~(a) General procedure. The proceedings for the forfeiture~~  
29 ~~or condemnation of property, the sale of which is provided for~~  
30 ~~under this chapter, shall be in rem in which the Commonwealth~~

1 ~~shall be the plaintiff and the property the defendant. The~~  
2 ~~Pennsylvania Rules of Civil Procedure shall apply to all~~  
3 ~~forfeiture proceedings brought under this chapter. A petition~~  
4 ~~shall be filed in the court of common pleas of the judicial~~  
5 ~~district where the property is located, verified by oath or~~  
6 ~~affirmation of an officer or citizen, containing the following:~~

- 7       ~~(1) A description of the property seized.~~  
8       ~~(2) A statement of the time and place where seized.~~  
9       ~~(3) The owner, if known.~~  
10       ~~(4) The person or persons in possession, if known.~~  
11       ~~(5) An allegation that the property is subject to~~  
12 ~~forfeiture under section 7707 (relating to loss of property~~  
13 ~~rights to Commonwealth) and an averment of material facts~~  
14 ~~upon which the forfeiture action is based.~~  
15       ~~(6) A prayer for an order of forfeiture that the~~  
16 ~~property be adjudged forfeited to the Commonwealth and~~  
17 ~~condemned and be ordered sold according to law unless cause~~  
18 ~~be shown to the contrary.~~

19       ~~(b) Notice to property owners. A copy of the petition~~  
20 ~~required under subsection (a) shall be served personally or by~~  
21 ~~certified mail on the owner or upon the person or persons in~~  
22 ~~possession at the time of the seizure. The copy shall have~~  
23 ~~endorsed a notice as follows:~~

24       ~~To the claimant of within described property: You are~~  
25 ~~required to file an answer to this petition, stating your~~  
26 ~~title in and right to possession of the property within 30~~  
27 ~~days from the service of this petition, and you are also~~  
28 ~~notified that, if you fail to file an answer, a decree of~~  
29 ~~forfeiture and condemnation will be entered against the~~  
30 ~~property.~~

1 ~~The notice shall be signed by the Attorney General, Deputy~~  
2 ~~Attorney General, district attorney, deputy district attorney or~~  
3 ~~assistant district attorney.~~

4 ~~(c) Substitute notice.—~~

5 ~~(1) If the owner of the property is unknown or there was~~  
6 ~~no person in possession of the property when seized or if the~~  
7 ~~owner or such person or persons in possession at the time of~~  
8 ~~the seizure cannot be personally served or located within the~~  
9 ~~jurisdiction of the court, notice of the petition shall be~~  
10 ~~given by the Commonwealth through an advertisement in only~~  
11 ~~one newspaper of general circulation published in the county~~  
12 ~~where the property was seized once a week for two successive~~  
13 ~~weeks. No other advertisement of any sort shall be necessary,~~  
14 ~~any other law to the contrary notwithstanding.~~

15 ~~(2) The notice shall:~~

16 ~~(i) contain a statement of the seizure of the~~  
17 ~~property with a description of the property and the place~~  
18 ~~and date of seizure; and~~

19 ~~(ii) direct any claimants to the property to file a~~  
20 ~~claim on or before a date given in the notice, which date~~  
21 ~~shall not be less than 30 days from the date of the first~~  
22 ~~publication.~~

23 ~~(3) If no claims are filed within 30 days of~~  
24 ~~publication, the property shall summarily forfeit to the~~  
25 ~~Commonwealth.~~

26 ~~(d) Property owners not in jurisdiction. For purposes of~~  
27 ~~this section, the owner or other such person cannot be found in~~  
28 ~~the jurisdiction of the court if:~~

29 ~~(1) A copy of the petition is mailed to the last known~~  
30 ~~address by certified mail and is returned without a delivery.~~

1           ~~(2) A personal service is attempted once but cannot be~~  
2 ~~made at the last known address.~~

3           ~~(3) A copy of the petition is left at the last known~~  
4 ~~address.~~

5 ~~(e) Notice automatically waived.~~

6           ~~(1) The notice provisions of this section are~~  
7 ~~automatically waived when the owner, without good cause,~~  
8 ~~fails to appear in court in response to a subpoena on the~~  
9 ~~underlying criminal charges.~~

10           ~~(2) Forty five days after such a failure to appear, if~~  
11 ~~good cause has not been demonstrated, the property shall~~  
12 ~~summarily forfeit to the Commonwealth.~~

13 ~~(f) Preservation of the property subject for forfeiture.~~

14           ~~(1) Upon application of the Commonwealth, the court may~~  
15 ~~enter a restraining order or injunction, require the~~  
16 ~~execution of a satisfactory performance bond or take any~~  
17 ~~other action to preserve the availability of property~~  
18 ~~described in section 7707 for forfeiture under this section~~  
19 ~~either:~~

20           ~~(i) upon the filing of an information or an~~  
21 ~~indictment charging a violation of this chapter for which~~  
22 ~~criminal forfeiture may be ordered under this chapter and~~  
23 ~~alleging that the property with respect to which the~~  
24 ~~order is sought would be subject to forfeiture; or~~

25           ~~(ii) prior to the filing of such an indictment or~~  
26 ~~information if, after notice to persons appearing to have~~  
27 ~~an interest in the property and an opportunity for a~~  
28 ~~hearing, the court determines that:~~

29           ~~(A) There is a substantial probability that the~~  
30 ~~Commonwealth will prevail on the issue of forfeiture~~

1           ~~and that failure to enter the order will result in~~  
2           ~~the property being destroyed, removed from the~~  
3           ~~jurisdiction of the court or otherwise made~~  
4           ~~unavailable for forfeiture.~~

5           ~~(B) The need to preserve the availability of the~~  
6           ~~property through the entry of the requested order~~  
7           ~~outweighs the hardship on any party against whom the~~  
8           ~~order is to be entered.~~

9           ~~(2) An order entered under this subsection shall be~~  
10          ~~effective for not more than 90 days unless extended by the~~  
11          ~~court for good cause shown or unless an indictment or~~  
12          ~~information described in paragraph (1)(i) has been filed.~~

13          ~~(g) Temporary restraining order.—~~

14          ~~(1) A temporary restraining order under subsection (f)~~  
15          ~~may be entered upon application of the Commonwealth without~~  
16          ~~notice or opportunity for a hearing when an information or~~  
17          ~~indictment has not yet been filed with respect to the~~  
18          ~~property if the Commonwealth demonstrates that:~~

19                 ~~(i) there is probable cause to believe that the~~  
20                 ~~property with respect to which the order is sought would~~  
21                 ~~be subject to forfeiture under this chapter; and~~

22                 ~~(ii) the provision of notice will jeopardize the~~  
23                 ~~availability of the property for forfeiture.~~

24          ~~(2) Such temporary order shall expire not more than ten~~  
25          ~~days after the date on which it is entered, unless:~~

26                 ~~(i) extended for good cause shown; or~~

27                 ~~(ii) the party against whom it is entered consents~~  
28                 ~~to an extension for a longer period.~~

29          ~~(3) A hearing requested concerning an order entered~~  
30          ~~under this subsection shall be held at the earliest possible~~

1 ~~time and prior to the expiration of the temporary order.~~

2 ~~(h) Hearing regarding property; rules of evidence. The~~  
3 ~~court may receive and consider at a hearing held under~~  
4 ~~subsection (f) or (g) evidence and information that would be~~  
5 ~~inadmissible under the rules of evidence.~~

6 ~~(i) Hearing time set. Upon the filing of a claim for the~~  
7 ~~property setting forth a right of possession, the case shall be~~  
8 ~~deemed at issue, and a time shall be fixed for the hearing.~~

9 ~~(j) Owner's burden of proof. At the time of the hearing, if~~  
10 ~~the Commonwealth produces evidence that the property in question~~  
11 ~~was unlawfully used, possessed or otherwise subject to~~  
12 ~~forfeiture under section 7706 (relating to presumptions), the~~  
13 ~~burden shall be upon the claimant to show that:~~

14 ~~(1) The claimant is the owner of the property or the~~  
15 ~~holder of a chattel mortgage or contract of conditional sale~~  
16 ~~thereon.~~

17 ~~(2) The claimant lawfully acquired the property.~~

18 ~~(3) It was not unlawfully used or possessed by the~~  
19 ~~claimant. In the event that it shall appear that the property~~  
20 ~~was unlawfully used or possessed by a person other than the~~  
21 ~~claimant, then the claimant must show that the unlawful use~~  
22 ~~or possession was without the claimant's knowledge or~~  
23 ~~consent. Such absence of knowledge or consent must be~~  
24 ~~reasonable under the circumstances presented.~~

25 ~~(k) Court ordered release of property.~~

26 ~~(1) If a person claiming the ownership of or right of~~  
27 ~~possession to or claiming to be the holder of a chattel~~  
28 ~~mortgage or contract of conditional sale upon the property,~~  
29 ~~the disposition of which is provided for in this section,~~  
30 ~~prior to the sale presents a petition to the court alleging~~

1 ~~over the property lawful ownership, right of possession, a~~  
2 ~~lien or reservation of title and if, upon public hearing, due~~  
3 ~~notice of which having been given to the Office of Attorney~~  
4 ~~General or the district attorney, the claimant proves by~~  
5 ~~competent evidence to the satisfaction of the court:~~

6 ~~(i) that the property was lawfully acquired,~~  
7 ~~possessed and used by him; or~~

8 ~~(ii) if it appears that the property was unlawfully~~  
9 ~~used by a person other than the claimant, that the~~  
10 ~~unlawful use was without the claimant's knowledge or~~  
11 ~~consent,~~

12 ~~then the court may order the property returned or delivered~~  
13 ~~to the claimant.~~

14 ~~(2) Such absence of knowledge or consent must be~~  
15 ~~reasonable under the circumstances presented. Otherwise, the~~  
16 ~~property shall be retained for official use or sold in~~  
17 ~~accordance with section 7707(f).]~~

18 ~~Section 6. Section 927 of Title 30 is amended to read:~~

19 ~~§ 927. Forfeiture of fish and devices.~~

20 ~~(a) General rule. A person convicted of an offense under~~  
21 ~~this title shall forfeit any fish seized under section 901(6)~~  
22 ~~(relating to powers and duties of waterways patrolmen and~~  
23 ~~deputies) and any device confiscated under this title.~~

24 ~~Forfeitures shall be conducted in accordance with 42 Pa.C.S. Ch.~~  
25 ~~58 (relating to asset forfeiture).~~

26 ~~[(b) Disposition of confiscated property. Any property~~  
27 ~~confiscated by the commission under this title shall be sold or~~  
28 ~~otherwise disposed of by the executive director. These~~  
29 ~~dispositions shall be recorded on the books of the commission.]~~

30 ~~Section 7. Title 42 is amended by adding a chapter to read:~~

1 CHAPTER 58

2 ASSET FORFEITURE

3 Sec.

4 5801. Scope of criminal asset forfeiture.

5 5802. Criminal asset forfeiture in general.

6 5803. Process for criminal asset forfeiture.

7 5804. Process for third party interest holders.

8 5805. Interaction with the Federal Government.

9 § 5801. Scope of criminal asset forfeiture.

10 (a) Certain forfeitures exempted. Forfeitures of property  
11 shall be conducted in accordance with this chapter, except for  
12 forfeitures authorized by:

13 (1) Section 3 of the act of July 8, 1978 (P.L.792,  
14 No.140), known as the Public Employee Pension Forfeiture Act.

15 (2) Section 6 of the act of April 6, 1980 (P.L.102,  
16 No.39), entitled "An act restricting the acquisition by  
17 certain aliens of an interest in agricultural lands."

18 (3) Sections 207, 211 and 505 of the act of December 7,  
19 1982 (P.L.784, No.225), known as the Dog Law.

20 (4) 18 Pa.C.S. § 3021 (relating to asset forfeiture);

21 (5) 18 Pa.C.S. § 5511 (relating to cruelty to animals);

22 (6) 18 Pa.C.S. § 6110.1 (relating to possession of  
23 firearm by minor);

24 (7) 18 Pa.C.S. § 6321 (relating to transmission of  
25 sexually explicit images by minor);

26 (8) 27 Pa.C.S. § 6208 (relating to penalties);

27 (9) 37 Pa.C.S. § 511 (relating to criminal penalties);

28 (10) 42 Pa.C.S. § 6801.1 (relating to terrorism  
29 forfeiture);

30 (11) 75 Pa.C.S. § 9405 (relating to forfeitures; process

1 ~~and procedure).~~

2 ~~(b) Contraband per se exempted. Nothing in this chapter~~  
3 ~~shall be construed to apply to the forfeiture of contraband per~~  
4 ~~se, the possession of which is inherently unlawful. Such~~  
5 ~~forfeiture includes, but is not limited to, forfeiture of the~~  
6 ~~following:~~

7 ~~(1) items bearing a counterfeit mark under 18 Pa.C.S. §~~  
8 ~~4119 (relating to trademark counterfeiting).~~

9 ~~(2) liquor, alcohol or malt or brewed beverages~~  
10 ~~illegally manufactured or possessed under section 601 of the~~  
11 ~~act of April 12, 1951 (P.L.90, No.21), known as the Liquor~~  
12 ~~Code.~~

13 ~~(3) unlawfully stamped cigarettes under section 307 of~~  
14 ~~the act of December 30, 2003 (P.L.441, No.64), known as the~~  
15 ~~Tobacco Product Manufacturer Directory Act.~~

16 ~~(4) unstamped cigarettes under section 1285 of the act~~  
17 ~~of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code~~  
18 ~~of 1971.~~

19 ~~(c) Conflicting law superseded. The procedures in this~~  
20 ~~chapter shall supersede any conflicting provisions of other~~  
21 ~~State laws.~~

22 ~~(d) Preemption. This chapter preempts any local ordinance~~  
23 ~~or regulation insofar as it is inconsistent with this chapter,~~  
24 ~~irrespective of the effective date of the ordinance or~~  
25 ~~regulation.~~

26 ~~§ 5802. Criminal asset forfeiture in general.~~

27 ~~(a) Criminal in form. Unless otherwise provided,~~  
28 ~~forfeitures under this chapter are criminal.~~

29 ~~(b) Forfeiture disfavored. Forfeitures are not favored~~  
30 ~~under State law and any ambiguity in this chapter shall be~~

1 ~~strictly construed against the Commonwealth.~~

2 ~~(c) Forfeitures generally.~~

3 ~~(1) After a person is convicted of an offense for which~~  
4 ~~forfeiture is expressly authorized as a penalty, the~~  
5 ~~following shall be subject to forfeiture to the Commonwealth~~  
6 ~~and no property right shall exist in them:~~

7 ~~(i) The convicted person's property constituting or~~  
8 ~~derived from any proceeds obtained directly from the~~  
9 ~~commission of the offense.~~

10 ~~(ii) The convicted person's property that:~~

11 ~~(A) Was used or intended to be used to commit or~~  
12 ~~facilitate the commission of the offense.~~

13 ~~(B) Bears a significant relationship to the~~  
14 ~~offense.~~

15 ~~(2) No additional penalties, including, but not limited~~  
16 ~~to, personal money judgments, shall be authorized under this~~  
17 ~~chapter except as provided by section 5803(k) (relating to~~  
18 ~~process for criminal asset forfeiture). Any restitution made~~  
19 ~~to a victim using property forfeited under this chapter shall~~  
20 ~~serve to satisfy in part or in whole any restitution order~~  
21 ~~against the convicted person.~~

22 ~~(3) Nothing in this section shall be construed to~~  
23 ~~prevent property from being forfeited by the terms of a plea~~  
24 ~~agreement approved by a court or of any other agreement of~~  
25 ~~the parties to a criminal proceeding. Forfeiture by agreement~~  
26 ~~shall be subject to the requirements of section 5804~~  
27 ~~(relating to process for third party interest holders).~~

28 ~~(d) Claims for damage, loss or impermissible sale of~~  
29 ~~property. After a finding under this chapter that seized~~  
30 ~~property is not subject to forfeiture, the property owner may~~

1 ~~bring a claim against the law enforcement authority that had~~  
2 ~~custody of the property and lost, damaged or impermissibly sold~~  
3 ~~it.~~

4 ~~(e) Use of property held in custody.~~

5 ~~(1) Whenever property is forfeited under this chapter~~  
6 ~~and after all ancillary proceedings under section 5804 are~~  
7 ~~concluded, the property shall be transferred to the custody~~  
8 ~~of the district attorney, if the law enforcement authority~~  
9 ~~seizing the property has local or county jurisdiction, or the~~  
10 ~~Attorney General, if the law enforcement authority seizing~~  
11 ~~the property has Statewide jurisdiction.~~

12 ~~(2) The district attorney or the Attorney General, as~~  
13 ~~applicable, shall sell any forfeited property that is not~~  
14 ~~required to be destroyed by law and is not harmful to the~~  
15 ~~public.~~

16 ~~(3) Sale of forfeited property to an employee of the~~  
17 ~~district attorney or Attorney General, a person related to an~~  
18 ~~employee by blood or marriage or another law enforcement~~  
19 ~~authority is prohibited.~~

20 ~~(4) The proceeds from sale shall be used to pay all~~  
21 ~~reasonable expenses related to the maintenance of custody and~~  
22 ~~sale of such property. The balance of the proceeds shall be~~  
23 ~~subject to subsection (f).~~

24 ~~(f) Use of cash or proceeds or property. Cash or proceeds~~  
25 ~~of forfeited property transferred under subsection (e) shall be~~  
26 ~~distributed in the following order:~~

27 ~~(1) To satisfy any restitution orders for victims of the~~  
28 ~~underlying offense.~~

29 ~~(2) To pay any liabilities owed by the Commonwealth to~~  
30 ~~defendants or claimants who substantially prevail under~~

1 ~~subsection (1).~~

2 ~~(3) Either:~~

3 ~~(i) if, in the custody of the Attorney General, to~~  
4 ~~the Department of Revenue for deposit into the General~~  
5 ~~Fund; or~~

6 ~~(ii) if, in the custody of the district attorney, to~~  
7 ~~the operating fund of the county in which the district~~  
8 ~~attorney is elected.~~

9 ~~(g) Distribution of property among law enforcement~~  
10 ~~authorities. If both municipal and State law enforcement~~  
11 ~~authorities were substantially involved in effecting the~~  
12 ~~seizure, the court having jurisdiction over the forfeiture~~  
13 ~~proceedings shall equitably distribute the property between the~~  
14 ~~district attorney and the Attorney General who shall dispose of~~  
15 ~~the property in accordance with subsections (e) and (f).~~

16 ~~(h) Annual audit of forfeited property. A county of this~~  
17 ~~Commonwealth shall provide, through the controller, board of~~  
18 ~~auditors or other appropriate auditor and the district attorney,~~  
19 ~~an annual audit of all forfeited property and proceeds obtained~~  
20 ~~under this section and the disposition thereof, as well as of~~  
21 ~~all fees awarded under subsection (1). The audit shall be~~  
22 ~~submitted to the Office of Attorney General by September 30 of~~  
23 ~~each year.~~

24 ~~(i) Annual report. The Attorney General shall annually~~  
25 ~~submit a report to the Appropriations Committee and Judiciary~~  
26 ~~Committee of the Senate and the Appropriations Committee and~~  
27 ~~Judiciary Committee of the House of Representatives describing~~  
28 ~~the forfeited property or proceeds thereof obtained under this~~  
29 ~~section, as well as the fees awarded under subsection (1). The~~  
30 ~~report shall include an accounting of all proceeds derived from~~

1 ~~the sale of forfeited property.~~

2 ~~(j) Public access. All accounting and audit records~~  
3 ~~generated under subsections (h) and (i) shall be subject to the~~  
4 ~~act of February 14, 2008 (P.L.6, No.3), known as the Right to~~  
5 ~~Know Law.~~

6 ~~(k) Taxpayer standing. A taxpayer of this Commonwealth has~~  
7 ~~standing to challenge in court any action contrary to subsection~~  
8 ~~(e), (f), (g), (h), (i) or (j).~~

9 ~~(l) Fee shifting. In any forfeiture proceeding under this~~  
10 ~~chapter in which the defendant or claimant substantially~~  
11 ~~prevails, the Commonwealth shall be liable for:~~

12 ~~(1) Reasonable attorney fees and other litigation costs~~  
13 ~~reasonably incurred by the defendant or claimant.~~

14 ~~(2) Postjudgment interest.~~

15 ~~(3) In cases involving currency or other negotiable~~  
16 ~~instruments:~~

17 ~~(i) Interest actually paid to the Commonwealth, from~~  
18 ~~the date of seizure or arrest of the property, that~~  
19 ~~results from the investment of the property in an~~  
20 ~~interest bearing account or instrument.~~

21 ~~(ii) An imputed amount of interest that the~~  
22 ~~currency, instruments or proceeds would have earned at~~  
23 ~~the rate applicable to the 30 day Treasury Bill, for any~~  
24 ~~period during which no interest was paid, not including~~  
25 ~~any period when the property reasonably was in use as~~  
26 ~~evidence in an official proceeding or in conducting~~  
27 ~~scientific tests for the purpose of collecting evidence,~~  
28 ~~commencing 15 days after the property was seized by a~~  
29 ~~State law enforcement authority or was turned over to a~~  
30 ~~State law enforcement authority by a Federal law~~

1 ~~enforcement authority.~~

2 ~~§ 5803. Process for criminal asset forfeiture.~~

3 ~~(a) Seizure.~~

4 ~~(1) Property subject to forfeiture under this chapter~~  
5 ~~may be seized by a law enforcement authority upon process~~  
6 ~~issued by any court of common pleas having jurisdiction.~~

7 ~~(2) Seizure without process may be made if:~~

8 ~~(i) the seizure is incident to an arrest or a search~~  
9 ~~under a search warrant or inspection under an~~  
10 ~~administrative inspection warrant and there is probable~~  
11 ~~cause to believe that the property is subject to~~  
12 ~~forfeiture under section 5802(c)(1) (relating to criminal~~  
13 ~~asset forfeiture in general);~~

14 ~~(ii) the property subject to seizure has been the~~  
15 ~~subject of a prior judgment in favor of the Commonwealth~~  
16 ~~in a criminal injunction or forfeiture proceeding under~~  
17 ~~this chapter; or~~

18 ~~(iii) there is probable cause to believe that the~~  
19 ~~property is subject to forfeiture under section 5802(c)~~  
20 ~~(1) and process or delay is likely to result in the~~  
21 ~~destruction or removal of the property or in its~~  
22 ~~otherwise being made unavailable for forfeiture.~~

23 ~~(b) Seizure of real property. Absent exigent circumstances,~~  
24 ~~no real property subject to forfeiture shall be seized unless~~  
25 ~~the Commonwealth first provides property owners and occupants~~  
26 ~~with notice and an opportunity for a hearing. The hearing shall~~  
27 ~~be conducted in accordance with subsections (d) and (e).~~

28 ~~(c) Receipt for seized property. When property is seized,~~  
29 ~~the law enforcement authority shall provide an itemized receipt~~  
30 ~~to the person in possession of the property or, in the absence~~

1 ~~of any person, leave a receipt in the place where the property~~  
2 ~~was found, if reasonably possible. The receipt shall provide~~  
3 ~~notice of the right of interest holders to move for the return~~  
4 ~~of seized property under subsections (d) and (e).~~

5 ~~(d) Pretrial motion for return of seized property. When~~  
6 ~~property has been seized for forfeiture and the defendant or~~  
7 ~~another putative interest holder in the property files a~~  
8 ~~pretrial motion for its return, the property shall promptly be~~  
9 ~~returned unless the Commonwealth proves that there is probable~~  
10 ~~cause that the property is subject to forfeiture.~~

11 ~~(e) Hardship release of property subject to forfeiture.~~  
12 ~~When the defendant or another putative interest holder in the~~  
13 ~~property files a motion for the hardship release of property,~~  
14 ~~the court shall order the release of seized property from the~~  
15 ~~seizing law enforcement authority pending the final~~  
16 ~~determination of forfeiture, if the putative interest holder~~  
17 ~~establishes by a preponderance of the evidence that:~~

18 ~~(1) The putative interest holder has a possessory~~  
19 ~~interest in the property.~~

20 ~~(2) Continued possession by the law enforcement~~  
21 ~~authority pending the final disposition of the forfeiture~~  
22 ~~proceedings will cause substantial hardship to the interest~~  
23 ~~holder, such as:~~

24 ~~(i) preventing the functioning of a legitimate~~  
25 ~~business;~~

26 ~~(ii) preventing an individual from working;~~

27 ~~(iii) preventing a minor child or student from~~  
28 ~~attending school;~~

29 ~~(iv) preventing or hindering an individual from~~  
30 ~~receiving necessary medical care;~~

1           ~~(v) hindering the care of an elderly or disabled~~  
2           ~~dependent child or adult;~~

3           ~~(vi) leaving an individual homeless; or~~

4           ~~(vii) any other condition that the court determines~~  
5           ~~causes a substantial hardship;~~

6           ~~(3) The hardship from the continued possession by the~~  
7           ~~law enforcement authority of the seized property outweighs~~  
8           ~~the risk that the property will be unlawfully used, destroyed~~  
9           ~~or removed from the jurisdiction of the court or otherwise~~  
10           ~~made unavailable for forfeiture if it is returned to the~~  
11           ~~owner during the pendency of the proceeding.~~

12           ~~(f) Initiation of forfeiture.~~

13           ~~(1) The proceedings for forfeiture of property shall be~~  
14           ~~tried in the same proceeding as the criminal case concerning~~  
15           ~~the determination of the defendant's guilt or innocence for~~  
16           ~~the underlying offense, unless the defendant moves to~~  
17           ~~bifurcate the trial of the forfeiture from the trial of the~~  
18           ~~underlying criminal case.~~

19           ~~(2) An information or an indictment charging the~~  
20           ~~defendant with an offense shall include notice to the~~  
21           ~~defendant that the Commonwealth will seek forfeiture as part~~  
22           ~~of any sentence. The notice shall include:~~

23           ~~(i) An itemized list of the specific property~~  
24           ~~subject to forfeiture, including, but not limited to, the~~  
25           ~~address of any real property, the exact dollar amount of~~  
26           ~~any money, negotiable instrument or security and the~~  
27           ~~make, model, year and license plate number of any~~  
28           ~~vehicle.~~

29           ~~(ii) A statement of the time and place of the~~  
30           ~~offense.~~

1           ~~(iii) A description of the particular use of the~~  
2           ~~property in the commission of the offense or derivation~~  
3           ~~therefrom.~~

4           ~~(g) Forfeiture phase of criminal proceeding. After a person~~  
5           ~~is convicted on any count in an indictment or information for~~  
6           ~~which forfeiture is sought, the Commonwealth must establish at a~~  
7           ~~forfeiture hearing by clear and convincing evidence that the~~  
8           ~~property is forfeitable under section 5802(c)(1) before the~~  
9           ~~court enters a preliminary order of forfeiture.~~

10          ~~(h) Extent of forfeitable interest. If the court determines~~  
11          ~~it is in the interests of judicial economy, the court or jury~~  
12          ~~may determine the extent of the convicted person's forfeitable~~  
13          ~~interest in the property before a preliminary order of~~  
14          ~~forfeiture is entered. The determination shall be subject to~~  
15          ~~amendments under section 5804 (relating to process for third-~~  
16          ~~party interest holders).~~

17          ~~(i) Right to trial by jury.~~

18                 ~~(1) At the forfeiture hearing, the defendant shall have~~  
19                 ~~the right to trial by jury of the forfeiture.~~

20                 ~~(2) The defendant may waive this right while preserving~~  
21                 ~~the right to trial by jury of the offense charged or other~~  
22                 ~~sentencing issues.~~

23                 ~~(3) Alternatively, the defendant may preserve this right~~  
24                 ~~while waiving the right to trial by jury of the offense~~  
25                 ~~charged or other sentencing issues.~~

26          ~~(j) Excessive fines.~~

27                 ~~(1) In order to enter a preliminary order of forfeiture~~  
28                 ~~under section 5802(c)(1)(ii), the court must make a~~  
29                 ~~determination that the forfeiture is not grossly~~  
30                 ~~disproportional to the gravity of the underlying offense.~~

1           ~~(2) The Commonwealth shall have the burden of~~  
2 ~~establishing proportionality by clear and convincing~~  
3 ~~evidence.~~

4           ~~(3) The value of property forfeited shall be determined~~  
5 ~~by considering, among other factors:~~

6                 ~~(i) Its market value.~~

7                 ~~(ii) Its subjective value to the defendant and the~~  
8 ~~defendant's family members.~~

9           ~~(4) The gravity of the offense shall be determined by~~  
10 ~~considering, among other factors:~~

11                 ~~(i) The penalty imposed as compared to the maximum~~  
12 ~~penalty available for the offense upon which the~~  
13 ~~forfeiture is based.~~

14                 ~~(ii) Whether the offense was isolated or part of a~~  
15 ~~pattern of criminal conduct.~~

16                 ~~(iii) The specific harm resulting from the offense~~  
17 ~~upon which the forfeiture is based.~~

18 ~~(k) Forfeiture of substitute property.~~

19           ~~(1) After entering a preliminary order of forfeiture,~~  
20 ~~the court may order the forfeiture of substitute property up~~  
21 ~~to the value of the property subject to the order, if the~~  
22 ~~Commonwealth establishes by clear and convincing evidence~~  
23 ~~that:~~

24                 ~~(i) The convicted person intentionally transferred,~~  
25 ~~sold or deposited the property to avoid the court's~~  
26 ~~jurisdiction.~~

27                 ~~(ii) The substitute property is owned solely by the~~  
28 ~~convicted person.~~

29           ~~(2) No codefendant shall be subject to joint and several~~  
30 ~~liability for forfeiture judgments owed by other defendants~~

1 ~~under this subsection.~~

2 ~~§ 5804. Process for third party interest holders.~~

3 ~~(a) Notice to third parties. After the court enters a~~  
4 ~~preliminary order of forfeiture, the Commonwealth shall send~~  
5 ~~notice to any person who reasonably appears to be a potential~~  
6 ~~claimant with standing to contest the forfeiture in an ancillary~~  
7 ~~proceeding under subsection (i). Potential claimants include,~~  
8 ~~but are not limited to:~~

9 ~~(1) Partial or joint owners of the property subject to~~  
10 ~~the preliminary order of forfeiture.~~

11 ~~(2) Holders of a bona fide security interest in the~~  
12 ~~property subject to the preliminary order of forfeiture.~~

13 ~~(3) Bona fide purchasers for value of the property~~  
14 ~~subject to the preliminary order of forfeiture.~~

15 ~~(4) Obligees of court ordered child support from the~~  
16 ~~convicted person.~~

17 ~~(5) Claimants of employment related compensation from~~  
18 ~~the convicted person.~~

19 ~~(b) Contents of notice. Notice shall include:~~

20 ~~(1) A description of the specific property subject to~~  
21 ~~the preliminary order of forfeiture including, but not~~  
22 ~~limited to, the address of any real property, the exact~~  
23 ~~dollar amount of any money, negotiable instrument or~~  
24 ~~securities and the make, model, year and license plate number~~  
25 ~~of any vehicle.~~

26 ~~(2) A statement that either:~~

27 ~~(i) a petition contesting forfeiture must be filed~~  
28 ~~within 60 days of the date of receipt of certified mail~~  
29 ~~or personal service; or~~

30 ~~(ii) in the case the service fails, a petition~~

~~contesting forfeiture must be filed within 60 days of the date of final publication of substitute notice;~~

~~(3) A statement describing the required contents of a petition contesting forfeiture as set forth in subsection (h).~~

~~(4) The name and contact information for the Commonwealth attorney to be served with the petition.~~

~~(5) The signature of the Attorney General, Deputy Attorney General, district attorney, deputy district attorney or assistant district attorney.~~

~~(c) Means of serving notice. Notice shall be served personally or by certified mail on the potential claimant.~~

~~(d) Substitute notice. If a potential claimant cannot be personally served or located within the jurisdiction of the court, notice of the petition shall be provided by the Commonwealth through an advertisement reasonably calculated to provide notice to the potential claimant:~~

~~(1) in a newspaper of general circulation published in the county where the property was seized, once a week for two successive weeks; and~~

~~(2) on the publicly accessible Internet website of the prosecuting attorney for a period of two weeks.~~

~~(e) Potential claimants not in jurisdiction. For purposes of this section, it shall be deemed that a potential claimant cannot be located in the jurisdiction of the court if:~~

~~(1) A copy of the petition is mailed to the potential claimant's last known address by certified mail and is returned without delivery.~~

~~(2) Personal service is attempted once, but cannot be made at the last known address.~~

1       ~~(3) A copy of the petition is left at the last known~~  
2       ~~address.~~

3       ~~(f) Proof of notice. The Commonwealth shall file proof of~~  
4       ~~notice with the court. No forfeiture order shall be final until~~  
5       ~~the court finds that such proof satisfies the notice~~  
6       ~~requirements under subsections (a), (b), (c), (d) and (e).~~

7       ~~(g) Petitioning for hearing. A person, other than the~~  
8       ~~defendant, asserting a legal interest in property subject to a~~  
9       ~~preliminary order of forfeiture under section 5803(g) (relating~~  
10       ~~to process for criminal asset forfeiture) may, within 60 days of~~  
11       ~~the date of receipt of certified mail or personal service or, in~~  
12       ~~the case such service fails, the date of final publication of~~  
13       ~~substitute notice, petition the court for a hearing to~~  
14       ~~adjudicate the validity of the person's alleged interest in the~~  
15       ~~property.~~

16       ~~(h) Contents of third party claimant petition. The petition~~  
17       ~~shall:~~

18               ~~(1) Be signed by the petitioner under penalty of~~  
19               ~~perjury.~~

20               ~~(2) Describe the nature and extent of the petitioner's~~  
21               ~~right, title or interest in the property, the time and~~  
22               ~~circumstances of the petitioner's acquisition of the right,~~  
23               ~~title or interest in the property and any additional facts~~  
24               ~~supporting the petitioner's claim.~~

25               ~~(3) Identify the relief sought, which may include, but~~  
26               ~~need not be limited to:~~

27                       ~~(i) return of the petitioner's property;~~

28                       ~~(ii) reimbursement for the petitioner's legal~~  
29                       ~~interest in the forfeited property;~~

30                       ~~(iii) severance of the petitioner's property from~~

1 ~~the forfeited property;~~

2 ~~(iv) retention of the property by the petitioner~~  
3 ~~subject to a lien in favor of the State to the extent of~~  
4 ~~the forfeitable interest;~~

5 ~~(v) any relief the court deems appropriate and just.~~

6 ~~(i) Ancillary proceeding in general.~~

7 ~~(1) If a third party claimant timely files a petition~~  
8 ~~asserting a legal interest in property to be forfeited, the~~  
9 ~~court shall conduct an ancillary proceeding, no later than~~  
10 ~~four months after entry of the preliminary order of~~  
11 ~~forfeiture. The hearing shall be a civil proceeding and the~~  
12 ~~petitioner shall have a right to a jury trial.~~

13 ~~(2) The hearing on the petition shall, to the extent~~  
14 ~~practicable and consistent with the interests of justice, be~~  
15 ~~held within 30 days of the filing of the petition. The court~~  
16 ~~may consolidate the hearing on the petition with a hearing on~~  
17 ~~any other petition filed under this subsection related to the~~  
18 ~~same underlying offense.~~

19 ~~(3) At the hearing, the petitioner may testify and~~  
20 ~~present evidence and witnesses on the petitioner's own~~  
21 ~~behalf, and cross-examine witnesses who appear at the~~  
22 ~~hearing. The Commonwealth may present evidence and witnesses~~  
23 ~~in rebuttal and in defense of its claim to forfeit the~~  
24 ~~property and may cross-examine witnesses who appear at the~~  
25 ~~hearing. In addition to testimony and evidence presented at~~  
26 ~~the hearing, the court shall consider any relevant portions~~  
27 ~~of the record of the criminal case that resulted in the order~~  
28 ~~of forfeiture.~~

29 ~~(4) If, after the hearing, the court determines that the~~  
30 ~~petitioner has established by a preponderance of the evidence~~

1 ~~that:~~

2 ~~(i) the petitioner has a legal right, title or~~  
3 ~~interest in the property and such right, title or~~  
4 ~~interest renders the preliminary order of forfeiture~~  
5 ~~invalid in whole or in part because the right, title or~~  
6 ~~interest was vested in the petitioner rather than the~~  
7 ~~defendant or was superior to any right, title or interest~~  
8 ~~of the defendant at the time of the commission of the~~  
9 ~~acts which gave rise to the forfeiture of the property~~  
10 ~~under this chapter; or~~

11 ~~(ii) the petitioner is a bona fide purchaser for~~  
12 ~~value of the right, title or interest in the property and~~  
13 ~~was at the time of purchase reasonably without cause to~~  
14 ~~believe that the property was subject to forfeiture under~~  
15 ~~this section.~~

16 ~~The court shall amend the order of forfeiture in accordance~~  
17 ~~with its determination.~~

18 ~~(j) Entering a final order.~~

19 ~~(1) When the ancillary proceeding ends, the court shall~~  
20 ~~enter a final order of forfeiture by amending the preliminary~~  
21 ~~order as necessary to account for any third party rights or~~  
22 ~~interests.~~

23 ~~(2) If no third party files a timely petition, the~~  
24 ~~preliminary order shall become the final order of forfeiture.~~

25 ~~§ 5805. Interaction with the Federal Government.~~

26 ~~(a) Prohibition on adoptive seizures. State law enforcement~~  
27 ~~authorities shall not refer seized property to a Federal agency~~  
28 ~~seeking the adoption by the Federal agency of the seized~~  
29 ~~property. Nothing in this chapter shall be construed to prohibit~~  
30 ~~the Federal Government, or any of its agencies, from seeking~~

1 ~~Federal forfeiture.~~

2 ~~(b) Sharing of seized property. All property, money or~~  
3 ~~other things of value received by a State law enforcement~~  
4 ~~authority under Federal law which authorizes the sharing or~~  
5 ~~transfer of all or a portion of forfeited property or the~~  
6 ~~proceeds of the sale of forfeited property to a State law~~  
7 ~~enforcement authority shall be promptly transferred, sold and~~  
8 ~~deposited as set forth in section 5803(e), (f), (g), (h) and (i)~~  
9 ~~(relating to process for criminal asset forfeiture), if Federal~~  
10 ~~law prohibits compliance with section 5803(e), (f), (g), (h) and~~  
11 ~~(i), State law enforcement authorities shall not seek forfeited~~  
12 ~~property or proceeds of the sale of forfeited property shared or~~  
13 ~~transferred under Federal law.~~

14 ~~(c) Civil and criminal liability. Any law enforcement~~  
15 ~~authority that violates subsection (a) is civilly liable to the~~  
16 ~~State for three times the amount of the forfeiture diverted and~~  
17 ~~for costs of suit and reasonable attorney fees. Any damages~~  
18 ~~awarded to the State shall be paid to the State Treasury to the~~  
19 ~~credit of the General Fund. Any agent, including a State law~~  
20 ~~enforcement officer who is detached to, deputized or~~  
21 ~~commissioned by, or working in conjunction with a Federal law~~  
22 ~~enforcement authority, who knowingly transfers or otherwise~~  
23 ~~trades seized property in violation of subsection (a) or who~~  
24 ~~receives property, money or other things of value under~~  
25 ~~subsection (b) and knowingly fails to transfer such property in~~  
26 ~~accordance with that subsection is guilty of a misdemeanor of~~  
27 ~~the second degree.~~

28 ~~Section 8. Sections 6801 and 6802(a), (f), (j) and (k) of~~  
29 ~~Title 42 are amended to read:~~

30 ~~§ 6801. Controlled substances forfeiture.~~

1 ~~[(a) Forfeitures generally. The following shall be subject~~  
2 ~~to forfeiture to the Commonwealth and no property right shall~~  
3 ~~exist in them:~~

4 ~~(1) All drug paraphernalia, controlled substances or~~  
5 ~~other drugs which have been manufactured, distributed,~~  
6 ~~dispensed or acquired in violation of the act of April 14,~~  
7 ~~1972 (P.L.233, No.64), known as The Controlled Substance,~~  
8 ~~Drug, Device and Cosmetic Act.~~

9 ~~(2) All raw materials, products and equipment of any~~  
10 ~~kind which are used, or intended for use, in manufacturing,~~  
11 ~~compounding, processing, delivering, importing or exporting~~  
12 ~~any controlled substance or other drug in violation of The~~  
13 ~~Controlled Substance, Drug, Device and Cosmetic Act.~~

14 ~~(3) All property which is used, or intended for use, as~~  
15 ~~a container for property described in paragraph (1) or (2).~~

16 ~~(4) All conveyances, including aircraft, vehicles or~~  
17 ~~vessels, which are used or are intended for use to transport,~~  
18 ~~or in any manner to facilitate the transportation, sale,~~  
19 ~~receipt, possession or concealment of, property described in~~  
20 ~~paragraph (1) or (2), except that:~~

21 ~~(i) no conveyance used by any person as a common~~  
22 ~~carrier in the transaction of business as a common~~  
23 ~~carrier shall be forfeited under the provisions of this~~  
24 ~~section unless it shall appear that the owner or other~~  
25 ~~person in charge of such conveyance was a consenting~~  
26 ~~party or privy to a violation of The Controlled~~  
27 ~~Substance, Drug, Device and Cosmetic Act;~~

28 ~~(ii) no conveyance shall be forfeited under the~~  
29 ~~provisions of this section by reason of any act or~~  
30 ~~omission established by the owner thereof to have been~~

1 ~~committed or omitted without his knowledge or consent,~~  
2 ~~which absence of knowledge or consent must be reasonable~~  
3 ~~under the circumstances presented;~~

4 ~~(iii) no bona fide security interest retained or~~  
5 ~~acquired under 13 Pa.C.S. (relating to commercial code)~~  
6 ~~by any merchant dealing in new or used aircraft, vehicles~~  
7 ~~or vessels, or retained or acquired by any licensed or~~  
8 ~~regulated finance company, bank or lending institution,~~  
9 ~~or by any other business regularly engaged in the~~  
10 ~~financing of, or lending on the security of, such~~  
11 ~~aircraft, vehicles or vessels, shall be subject to~~  
12 ~~forfeiture or impairment; and~~

13 ~~(iv) no conveyance shall be forfeited under this~~  
14 ~~section for violation of section 13(a)(31) of The~~  
15 ~~Controlled Substance, Drug, Device and Cosmetic Act.~~

16 ~~(5) All books, records and research, including formulas,~~  
17 ~~microfilm, tapes and data, which are used or intended for use~~  
18 ~~in violation of The Controlled Substance, Drug, Device and~~  
19 ~~Cosmetic Act.~~

20 ~~(6) (i) All of the following:~~

21 ~~(A) Money, negotiable instruments, securities or~~  
22 ~~other things of value furnished or intended to be~~  
23 ~~furnished by any person in exchange for a controlled~~  
24 ~~substance in violation of The Controlled Substance,~~  
25 ~~Drug, Device and Cosmetic Act, and all proceeds~~  
26 ~~traceable to such an exchange.~~

27 ~~(B) Money, negotiable instruments, securities or~~  
28 ~~other things of value used or intended to be used to~~  
29 ~~facilitate any violation of The Controlled Substance,~~  
30 ~~Drug, Device and Cosmetic Act.~~

1           ~~(C) Real property used or intended to be used to~~  
2           ~~facilitate any violation of The Controlled Substance,~~  
3           ~~Drug, Device and Cosmetic Act, including structures~~  
4           ~~or other improvements thereon, and including any~~  
5           ~~right, title and interest in the whole or any lot or~~  
6           ~~tract of land and any appurtenances or improvements,~~  
7           ~~which is used, or intended to be used, in any manner~~  
8           ~~or part, to commit, or to facilitate the commission~~  
9           ~~of, a violation of The Controlled Substance, Drug,~~  
10           ~~Device and Cosmetic Act, and things growing on,~~  
11           ~~affixed to and found in the land.~~

12           ~~(ii) No property shall be forfeited under this~~  
13           ~~paragraph, to the extent of the interest of an owner, by~~  
14           ~~reason of any act or omission established by the owner to~~  
15           ~~have been committed or omitted without the knowledge or~~  
16           ~~consent of that owner. Such money and negotiable~~  
17           ~~instruments found in close proximity to controlled~~  
18           ~~substances possessed in violation of The Controlled~~  
19           ~~Substance, Drug, Device and Cosmetic Act shall be~~  
20           ~~rebuttably presumed to be proceeds derived from the~~  
21           ~~selling of a controlled substance in violation of The~~  
22           ~~Controlled Substance, Drug, Device and Cosmetic Act.~~

23           ~~(iii) No valid lien or encumbrance on real property~~  
24           ~~shall be subject to forfeiture or impairment under this~~  
25           ~~paragraph. A lien which is fraudulent or intended to~~  
26           ~~avoid forfeiture under this section shall be invalid.~~

27           ~~(7) Any firearms, including, but not limited to, rifles,~~  
28           ~~shotguns, pistols, revolvers, machine guns, zip guns or any~~  
29           ~~type of prohibited offensive weapon, as that term is defined~~  
30           ~~in 18 Pa.C.S. (relating to crimes and offenses), which are~~

1 ~~used or intended for use to facilitate a violation of The~~  
2 ~~Controlled Substance, Drug, Device and Cosmetic Act. Such~~  
3 ~~operable firearms as are found in close proximity to~~  
4 ~~illegally possessed controlled substances shall be rebuttably~~  
5 ~~presumed to be used or intended for use to facilitate a~~  
6 ~~violation of The Controlled Substance, Drug, Device and~~  
7 ~~Cosmetic Act. All weapons forfeited under this section shall~~  
8 ~~be immediately destroyed by the receiving law enforcement~~  
9 ~~agency.~~

10 ~~(b) Process and seizure. Property subject to forfeiture~~  
11 ~~under this chapter may be seized by the law enforcement~~  
12 ~~authority upon process issued by any court of common pleas~~  
13 ~~having jurisdiction over the property. Seizure without process~~  
14 ~~may be made if:~~

15 ~~(1) the seizure is incident to an arrest or a search~~  
16 ~~under a search warrant or inspection under an administrative~~  
17 ~~inspection warrant;~~

18 ~~(2) the property subject to seizure has been the subject~~  
19 ~~of a prior judgment in favor of the Commonwealth in a~~  
20 ~~criminal injunction or forfeiture proceeding under this~~  
21 ~~chapter;~~

22 ~~(3) there is probable cause to believe that the property~~  
23 ~~is dangerous to health or safety; or~~

24 ~~(4) there is probable cause to believe that the property~~  
25 ~~has been used or is intended to be used in violation of The~~  
26 ~~Controlled Substance, Drug, Device and Cosmetic Act.~~

27 ~~(c) Seizure without process. In the event seizure without~~  
28 ~~process occurs, as provided herein, proceedings for the issuance~~  
29 ~~thereof shall be instituted forthwith.~~

30 ~~(d) Custody of property. Property taken or detained under~~

~~1 this section shall not be subject to replevin, but is deemed to  
2 be in the custody of the law enforcement authority subject only  
3 to the orders and decrees of the court of common pleas having  
4 jurisdiction over the forfeiture proceedings and of the district  
5 attorney or the Attorney General. When property is seized under  
6 this chapter, the law enforcement authority shall place the  
7 property under seal and either:~~

~~8 (1) remove the property to a place designated by it; or~~

~~9 (2) require that the district attorney or Attorney  
10 General take custody of the property and remove it to an  
11 appropriate location for disposition in accordance with law.~~

~~12 (e) Use of property held in custody. Whenever property is  
13 forfeited under this chapter, the property shall be transferred  
14 to the custody of the district attorney, if the law enforcement  
15 authority seizing the property has local or county jurisdiction,  
16 or the Attorney General, if the law enforcement authority  
17 seizing the property has Statewide jurisdiction. The district  
18 attorney or the Attorney General, where appropriate, may:~~

~~19 (1) Retain the property for official use.~~

~~20 (2) Sell any forfeited property which is not required to  
21 be destroyed by law and which is not harmful to the public,  
22 but the proceeds from any such sale shall be used to pay all  
23 proper expenses of the proceedings for forfeiture and sale,  
24 including expenses of seizure, maintenance of custody,  
25 advertising and court costs. The balance of the proceeds  
26 shall be dealt with in accordance with subsections (f) and  
27 (g).~~

~~28 (f) Use of cash or proceeds of property. Cash or proceeds  
29 of forfeited property transferred to the custody of the district  
30 attorney pursuant to subsection (e) shall be placed in the~~

1 ~~operating fund of the county in which the district attorney is~~  
2 ~~elected. The appropriate county authority shall immediately~~  
3 ~~release from the operating fund, without restriction, a like~~  
4 ~~amount for the use of the district attorney enforcing the~~  
5 ~~provisions of The Controlled Substance, Drug, Device and~~  
6 ~~Cosmetic Act. The entity having budgetary control shall not~~  
7 ~~anticipate future forfeitures or proceeds therefrom in adoption~~  
8 ~~and approval of the budget for the district attorney.~~

9 ~~(g) Distribution of property among law enforcement~~  
10 ~~authorities. If both municipal and State law enforcement~~  
11 ~~authorities were substantially involved in effecting the~~  
12 ~~seizure, the court having jurisdiction over the forfeiture~~  
13 ~~proceedings shall equitably distribute the property between the~~  
14 ~~district attorney and the Attorney General.~~

15 ~~(h) Authorization to utilize property. The district~~  
16 ~~attorney and the Attorney General shall utilize forfeited~~  
17 ~~property or proceeds thereof for the purpose of enforcing the~~  
18 ~~provisions of The Controlled Substance, Drug, Device and~~  
19 ~~Cosmetic Act. In appropriate cases, the district attorney and~~  
20 ~~the Attorney General may designate proceeds from forfeited~~  
21 ~~property to be utilized by community based drug and crime~~  
22 ~~fighting programs and for relocation and protection of witnesses~~  
23 ~~in criminal cases.~~

24 ~~(i) Annual audit of forfeited property. It shall be the~~  
25 ~~responsibility of every county in this Commonwealth to provide,~~  
26 ~~through the controller, board of auditors or other appropriate~~  
27 ~~auditor and the district attorney, an annual audit of all~~  
28 ~~forfeited property and proceeds obtained under this section. The~~  
29 ~~audit shall not be made public but shall be submitted to the~~  
30 ~~Office of Attorney General. The county shall report all~~

1 ~~forfeited property and proceeds obtained under this section and~~  
2 ~~the disposition thereof to the Attorney General by September 30~~  
3 ~~of each year.~~

4 ~~(j) Annual report; confidential information regarding~~  
5 ~~property. The Attorney General shall annually submit a report,~~  
6 ~~to the Appropriations and Judiciary Committees of the Senate and~~  
7 ~~to the Appropriations and Judiciary Committees of the House of~~  
8 ~~Representatives, specifying the forfeited property or proceeds~~  
9 ~~thereof obtained under this section. The report shall give an~~  
10 ~~accounting of all proceeds derived from the sale of forfeited~~  
11 ~~property and the use made of unsold forfeited property. The~~  
12 ~~Attorney General shall adopt procedures and guidelines governing~~  
13 ~~the release of information by the district attorney to protect~~  
14 ~~the confidentiality of forfeited property or proceeds used in~~  
15 ~~ongoing drug enforcement activities.~~

16 ~~(k) Proceeds and appropriations. The proceeds or future~~  
17 ~~proceeds from forfeited property under this chapter shall be in~~  
18 ~~addition to any appropriation made to the Office of Attorney~~  
19 ~~General.] Forfeiture of property shall be authorized for~~  
20 ~~violation of the act of April 14, 1972 (P.L.233, No.64), known~~  
21 ~~as The Controlled Substance, Drug, Device and Cosmetic Act, and~~  
22 ~~conducted in accordance with Chapter 58 (relating to asset~~  
23 ~~forfeiture). No conveyance may be forfeited under this section~~  
24 ~~for a violation of section 13(a)(31) of The Controlled~~  
25 ~~Substance, Drug, Device and Cosmetic Act.~~

26 ~~§ 6802. Procedure with respect to seized property subject to~~  
27 ~~liens and rights of lienholders.~~

28 ~~(a) General procedure. The proceedings for the forfeiture~~  
29 ~~or condemnation of property, the sale of which is provided for~~  
30 ~~in this chapter, shall be in rem, in which the Commonwealth~~

1 ~~shall be the plaintiff and the property the defendant. A~~  
2 ~~petition shall be filed in the court of common pleas of the~~  
3 ~~judicial district where the property is located, verified by~~  
4 ~~oath or affirmation of an officer or citizen, containing the~~  
5 ~~following:~~

- 6       ~~(1) A description of the property seized.~~  
7       ~~(2) A statement of the time and place where seized.~~  
8       ~~(3) The owner, if known.~~  
9       ~~(4) The person or persons in possession, if known.~~  
10       ~~(5) An allegation that the property is subject to~~  
11 ~~forfeiture pursuant to section [6801(a) (relating to~~  
12 ~~controlled substances forfeiture) or] 6801.1(a) (relating to~~  
13 ~~terrorism forfeiture) and an averment of material facts upon~~  
14 ~~which the forfeiture action is based.~~  
15       ~~(6) A prayer for an order of forfeiture that the~~  
16 ~~property be adjudged forfeited to the Commonwealth and~~  
17 ~~condemned and be ordered sold according to law, unless cause~~  
18 ~~be shown to the contrary.~~

19       ~~\* \* \*~~

20       ~~(f) Preservation of the property subject for forfeiture.~~

21 ~~Upon application of the Commonwealth, the court may enter a~~  
22 ~~restraining order or injunction, require the execution of a~~  
23 ~~satisfactory performance bond or take any other action to~~  
24 ~~preserve the availability of property described in section~~  
25 ~~[6801(a) or] 6801.1(a) for forfeiture under this section either:~~

- 26       ~~(1) upon the filing of an information or an indictment~~  
27 ~~charging an offense in this Commonwealth for which criminal~~  
28 ~~forfeiture may be ordered under this chapter and alleging~~  
29 ~~that the property with respect to which the order is sought~~  
30 ~~would be subject to forfeiture; or~~

1           ~~(2) prior to the filing of such an indictment or~~  
2 ~~information, if, after notice to persons appearing to have an~~  
3 ~~interest in the property and an opportunity for a hearing,~~  
4 ~~the court determines that:~~

5           ~~(i) there is a substantial probability that the~~  
6 ~~Commonwealth will prevail on the issue of forfeiture and~~  
7 ~~that failure to enter the order will result in the~~  
8 ~~property being destroyed, removed from the jurisdiction~~  
9 ~~of the court or otherwise made unavailable for~~  
10 ~~forfeiture; and~~

11           ~~(ii) the need to preserve the availability of the~~  
12 ~~property through the entry of the requested order~~  
13 ~~outweighs the hardship on any party against whom the~~  
14 ~~order is to be entered.~~

15 ~~However, an order entered pursuant to this paragraph shall be~~  
16 ~~effective for not more than 90 days unless extended by the~~  
17 ~~court for good cause shown or unless an indictment or~~  
18 ~~information described in paragraph (1) has been filed.~~

19           ~~\* \* \*~~

20           ~~(j) Owner's burden of proof. At the time of the hearing, if~~  
21 ~~the Commonwealth produces evidence that the property in question~~  
22 ~~was unlawfully used, possessed or otherwise subject to~~  
23 ~~forfeiture under section [6801(a) or] 6801.1(a), the burden~~  
24 ~~shall be upon the claimant to show:~~

25           ~~(1) That the claimant is the owner of the property or~~  
26 ~~the holder of a chattel mortgage or contract of conditional~~  
27 ~~sale thereon.~~

28           ~~(2) That the claimant lawfully acquired the property.~~

29           ~~(3) That it was not unlawfully used or possessed by him.~~

30           ~~In the event that it shall appear that the property was~~

1 ~~unlawfully used or possessed by a person other than the~~  
2 ~~claimant, then the claimant shall show that the unlawful use~~  
3 ~~or possession was without his knowledge or consent. Such~~  
4 ~~absence of knowledge or consent must be reasonable under the~~  
5 ~~circumstances presented.~~

6 ~~(k) Court ordered release of property. If a person claiming~~  
7 ~~the ownership of or right of possession to or claiming to be the~~  
8 ~~holder of a chattel mortgage or contract of conditional sale~~  
9 ~~upon the property, the disposition of which is provided for in~~  
10 ~~this section, prior to the sale presents a petition to the court~~  
11 ~~alleging over the property lawful ownership, right of~~  
12 ~~possession, a lien or reservation of title and if, upon public~~  
13 ~~hearing, due notice of which having been given to the Attorney~~  
14 ~~General or the district attorney, the claimant shall prove by~~  
15 ~~competent evidence to the satisfaction of the court that the~~  
16 ~~property was lawfully acquired, possessed and used by him or, it~~  
17 ~~appearing that the property was unlawfully used by a person~~  
18 ~~other than the claimant, that the unlawful use was without the~~  
19 ~~claimant's knowledge or consent, then the court may order the~~  
20 ~~property returned or delivered to the claimant. Such absence of~~  
21 ~~knowledge or consent must be reasonable under the circumstances~~  
22 ~~presented. Otherwise, it shall be retained for official use or~~  
23 ~~sold in accordance with section [6801(e) or] 6801.1(f).~~

24 ~~Section 9. Sections 4909(c), 9405(a), (b), (c)(1), (d), (i)~~  
25 ~~and (j) and 9406 of Title 75 are amended to read:~~

26 ~~§ 4909. Transporting foodstuffs in vehicles used to transport~~  
27 ~~waste.~~

28 ~~\*\*\*~~

29 ~~(c) Vehicle forfeiture. Any vehicle or conveyance used in~~  
30 ~~the commission of an offense under this section shall be deemed~~

1 ~~contraband and forfeited [to the Department of Environmental~~  
2 ~~Resources. The provisions of law relating to the seizure,~~  
3 ~~summary and judicial forfeiture, and condemnation of~~  
4 ~~intoxicating liquor shall apply to seizures and forfeitures~~  
5 ~~under this section. Proceeds from the sale of forfeited vehicles~~  
6 ~~or conveyances shall be deposited in the Solid Waste Abatement~~  
7 ~~Fund] in accordance with 42 Pa.C.S. Ch. 58 (relating to asset~~  
8 ~~forfeiture).~~

9 \* \* \*

10 ~~§ 9405. Forfeitures; process and procedures.~~

11 ~~(a) Subjects of forfeiture. The following are subject to~~  
12 ~~forfeiture to the Commonwealth and no property right shall exist~~  
13 ~~in them:~~

14 ~~(1) Any liquid fuels or fuels produced in or imported~~  
15 ~~into this Commonwealth by any distributor who does not~~  
16 ~~possess a valid liquid fuels tax permit or fuels permit as~~  
17 ~~required by section 9003 (relating to liquid fuels and fuels~~  
18 ~~permits; bond or deposit of securities), except liquid fuels~~  
19 ~~or fuels imported in barrels, drums or similar containers~~  
20 ~~with a capacity of not more than 55 gallons in each barrel,~~  
21 ~~drum or container.~~

22 ~~(2) All conveyances, including vehicles or vessels, used~~  
23 ~~to transport liquid fuels or fuels as described in paragraph~~  
24 ~~(1). [except:~~

25 ~~(i) no conveyance used by any person as a common~~  
26 ~~carrier in the transaction of business as a common~~  
27 ~~carrier is subject to forfeiture under this section~~  
28 ~~unless it appears that the owner or other person in~~  
29 ~~charge of the conveyance is a consenting party or privy~~  
30 ~~to a violation of Chapter 90 (relating to liquid fuels~~

1           ~~and fuels tax); and~~

2           ~~(ii) no bona fide security interest retained or~~  
3           ~~acquired under Title 13 (relating to commercial code) by~~  
4           ~~any merchant dealing in new or used vehicles or vessels,~~  
5           ~~or retained or acquired by any licensed or regulated~~  
6           ~~finance company, bank, lending institution or by any~~  
7           ~~other business regularly engaged in the financing of or~~  
8           ~~lending on the security of such vehicles or vessels,~~  
9           ~~shall be subject to forfeiture or impairment.] Forfeiture~~  
10           ~~of such conveyances shall be conducted in accordance with~~  
11           ~~42 Pa.C.S. Ch. 58 (relating to asset forfeiture).~~

12           ~~(b) Method of seizure. [Property] Liquid fuels or fuels~~  
13           ~~subject to forfeiture under this section may be seized by the~~  
14           ~~Department of Revenue upon process issued by any court of common~~  
15           ~~pleas having jurisdiction over the property. Seizure without~~  
16           ~~process may be made if the seizure is incident to an inspection~~  
17           ~~or arrest for a violation of this chapter or Chapter 90.~~

18           ~~(c) Limit on return of [property] liquid fuels or fuels.~~

19           ~~(1) No [property] liquid fuels or fuels seized in~~  
20           ~~accordance with this section, when in the custody of the~~  
21           ~~Department of Revenue, shall be seized or taken therefrom by~~  
22           ~~any writ of replevin or other judicial process unless a~~  
23           ~~petition for forfeiture is not timely filed.~~

24           ~~\* \* \*~~

25           ~~(d) In rem proceedings. The proceedings for the forfeiture~~  
26           ~~of any liquid fuels or fuels [or conveyances] seized under this~~  
27           ~~section shall be in rem. The Commonwealth shall be the plaintiff~~  
28           ~~and the property shall be the defendant. A petition shall be~~  
29           ~~filed, within five days after seizure, in the court of common~~  
30           ~~pleas of the county in which the property was seized by revenue~~

1 ~~agents of the Department of Revenue, verified by oath or~~  
2 ~~affirmation of any revenue agent. In the event that the petition~~  
3 ~~is not filed within the time prescribed herein, the seized~~  
4 ~~property shall be immediately returned to the person from whom~~  
5 ~~seized or the owner thereof.~~

6 \* \* \*

7 ~~(i) Standard of proof. The claimant shall have the burden~~  
8 ~~of proving that he is not subject to the provisions of this~~  
9 ~~section, but the burden of proof shall be upon the Commonwealth~~  
10 ~~to prove all other facts necessary for the forfeiture of the~~  
11 ~~property. In the event that the Commonwealth has not met its~~  
12 ~~burden by a preponderance of the evidence or the claimant has~~  
13 ~~proved that he is not subject to the provisions of this section,~~  
14 ~~the court shall order the property returned to the claimant;~~  
15 ~~otherwise, the court shall order the property forfeited to the~~  
16 ~~Commonwealth. [In the case of a motor vehicle, vessel or~~  
17 ~~conveyance, should the claimant prove to the satisfaction of the~~  
18 ~~court that he is the registered owner of the motor vehicle,~~  
19 ~~vessel or conveyance and that he did not know or have reason to~~  
20 ~~know that it was being used to transport liquid fuels or fuels~~  
21 ~~in violation of the provisions of section 9404 (relating to~~  
22 ~~violations and penalties) or 9019 (relating to diesel fuel~~  
23 ~~importers and transporters; prohibiting use of dyed diesel fuel~~  
24 ~~on highways; violations and penalties), the court in its~~  
25 ~~discretion may order the motor vehicle, vessel or conveyance~~  
26 ~~returned to the claimant.~~

27 ~~(j) Encumbered motor vehicle. In the case of a motor~~  
28 ~~vehicle, should the claimant prove that he holds a valid~~  
29 ~~encumbrance upon such motor vehicle, notice of which encumbrance~~  
30 ~~has been duly noted on the certificate of title to the motor~~

1 ~~vehicle in accordance with the provisions of Chapter 11-~~  
2 ~~(relating to certificate of title and security interests), the~~  
3 ~~forfeiture shall be subject to such encumbrance as of the date-~~  
4 ~~of the seizure less prepaid or unearned interest. Before the~~  
5 ~~motor vehicle may be sold, exchanged or otherwise transferred or~~  
6 ~~retained for use by the Commonwealth, the outstanding amount of~~  
7 ~~the encumbrance shall be paid to the claimant or possession of~~  
8 ~~the motor vehicle shall be turned over to the claimant who shall~~  
9 ~~expose the same to public sale and shall pay over to the~~  
10 ~~Commonwealth any amount realized in excess of the outstanding~~  
11 ~~amount of such encumbrance less the reasonable costs incurred by~~  
12 ~~claimant in conducting such sale.]~~

13 ~~§ 9406. Disposition of fines and forfeitures.~~

14 ~~All fines imposed under this chapter and the net proceeds~~  
15 ~~received from the sale of forfeited [property] liquid fuels or~~  
16 ~~fuels shall be payable to the Commonwealth and credited to the~~  
17 ~~Motor License Fund.~~

18 ~~Section 10. Notwithstanding any other provision of law to~~  
19 ~~the contrary, the following forfeitures shall be conducted in~~  
20 ~~accordance with 42 Pa.C.S. Ch. 58:~~

21 ~~(1) The forfeiture of property specified in section 1 of~~  
22 ~~the act of July 3, 1941 (P.L.263, No.121), entitled "An act~~  
23 ~~providing for the forfeiture and condemnation of vehicles~~  
24 ~~used to store, possess or transport narcotics or drugs, the~~  
25 ~~possession or transportation of which is in violation of~~  
26 ~~law."~~

27 ~~(2) The seizure of property specified in sections 211(a)~~  
28 ~~(3) and 601 of the act of April 12, 1951 (P.L.90, No.21),~~  
29 ~~known as the Liquor Code.~~

30 ~~(3) The forfeiture of property specified in section 1285-~~

1 ~~of the act of March 4, 1971 (P.L.6, No.2), known as the Tax~~  
2 ~~Reform Code of 1971.~~

3 ~~(4) The forfeiture of property specified in section 614~~  
4 ~~of the act of July 7, 1980 (P.L.380, No.97), known as the~~  
5 ~~Solid Waste Management Act.~~

6 ~~(5) The forfeiture of property specified in section 1715~~  
7 ~~of the act of July 28, 1988 (P.L.556, No.101), known as the~~  
8 ~~Municipal Waste Planning, Recycling and Waste Reduction Act.~~

9 ~~(6) The forfeiture of property specified in section 1 of~~  
10 ~~the act of December 1, 2004 (P.L.1766, No.227), entitled "An~~  
11 ~~act authorizing cities of the first class that have adopted a~~  
12 ~~home rule charter to enforce ordinances, rules and~~  
13 ~~regulations prohibiting dumping or disposal of waste, trash~~  
14 ~~or debris."~~

15 ~~Section 11. Repeals are as follows:~~

16 ~~(a) The General Assembly finds that the repeals under~~  
17 ~~subsections (b) and (c) are necessary to effectuate the addition~~  
18 ~~of 42 Pa.C.S. Ch. 58.~~

19 ~~(b) Sections 602 and 603(a) and (b) of the act of April 12,~~  
20 ~~1951 (P.L.90, No.21), known as the Liquor Code, are repealed to~~  
21 ~~the extent of any inconsistency with this act.~~

22 ~~(c) The following acts and parts of acts are repealed~~  
23 ~~absolutely:~~

24 ~~(1) Sections 2, 3, 4 and 5 of the act of July 3, 1941~~  
25 ~~(P.L.263, No.121), entitled "An act providing for the~~  
26 ~~forfeiture and condemnation of vehicles used to store,~~  
27 ~~possess or transport narcotics or drugs, the possession or~~  
28 ~~transportation of which is in violation of law."~~

29 ~~(2) Section 603(c) of the act of April 12, 1951 (P.L.90,~~  
30 ~~No.21), known as the Liquor Code.~~

1           ~~(3) Section 1285(f), (g), (h), (i), (j), (k), (l), (m)~~  
2           ~~and (n) of the act of March 4, 1971 (P.L.6, No.2), known as~~  
3           ~~the Tax Reform Code of 1971.~~

4           ~~Section 12. This act shall take effect in 90 days.~~

5           SECTION 1. SECTION 1518(F) OF TITLE 4 OF THE PENNSYLVANIA  
6 CONSOLIDATED STATUTES IS AMENDED TO READ:

<--

7           § 1518. PROHIBITED ACTS; PENALTIES.

8           \* \* \*

9           (F) PROPERTY SUBJECT TO SEIZURE, CONFISCATION, DESTRUCTION  
10 OR FORFEITURE.--ANY EQUIPMENT, DEVICE OR APPARATUS, MONEY,  
11 MATERIAL, GAMING PROCEEDS OR SUBSTITUTED PROCEEDS OR REAL OR  
12 PERSONAL PROPERTY USED, OBTAINED OR RECEIVED OR ANY ATTEMPT TO  
13 USE, OBTAIN OR RECEIVE THE DEVICE, APPARATUS, MONEY, MATERIAL,  
14 PROCEEDS OR REAL OR PERSONAL PROPERTY IN VIOLATION OF THIS PART  
15 SHALL BE SUBJECT TO [SEIZURE, CONFISCATION, DESTRUCTION OR  
16 FORFEITURE] THE PROVISIONS OF 42 PA.C.S. CH. 58 (RELATING TO  
17 FORFEITURE OF ASSETS).

18           SECTION 2. SECTION 910(C.1) OF TITLE 18 IS AMENDED TO READ:

19           § 910. MANUFACTURE, DISTRIBUTION, USE OR POSSESSION OF DEVICES  
20                           FOR THEFT OF TELECOMMUNICATIONS SERVICES.

21           \* \* \*

22           (C.1) FORFEITURE OF UNLAWFUL TELECOMMUNICATION DEVICES.--  
23 UPON CONVICTION OF A DEFENDANT UNDER THIS SECTION, THE COURT  
24 MAY, IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, DIRECT  
25 THAT THE DEFENDANT FORFEIT ANY UNLAWFUL TELECOMMUNICATION  
26 DEVICES IN THE DEFENDANT'S POSSESSION OR CONTROL WHICH WERE  
27 INVOLVED IN THE VIOLATION FOR WHICH THE DEFENDANT WAS CONVICTED.  
28 THE FORFEITURE SHALL BE CONDUCTED IN ACCORDANCE WITH 42 PA.C.S.  
29 CH. 58 (RELATING TO FORFEITURE OF ASSETS).

30           \* \* \*

1 SECTION 2.1. SECTION 2717 OF TITLE 18 IS AMENDED BY ADDING A  
2 SUBSECTION TO READ:  
3 § 2717. TERRORISM.

4 \* \* \*

5 (B.1) FORFEITURE.--EACH FOREIGN OR DOMESTIC ASSET RELATED TO  
6 TERRORISM, INCLUDING THE FOLLOWING, SHALL BE SUBJECT TO  
7 FORFEITURE UNDER 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF  
8 ASSETS) AND NO PROPERTY RIGHT SHALL EXIST IN THE ASSET:

9 (1) EACH FOREIGN OR DOMESTIC ASSET:

10 (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED  
11 IN PLANNING OR PERPETRATING AN ACT IN THIS COMMONWEALTH  
12 WHICH VIOLATES THIS SECTION AND EACH FOREIGN OR DOMESTIC  
13 ASSET AFFORDING A PERSON A SOURCE OF INFLUENCE OVER THE  
14 ENTITY OR ORGANIZATION.

15 (II) ACQUIRED OR MAINTAINED BY A PERSON WITH THE  
16 INTENT AND FOR THE PURPOSE OF SUPPORTING, PLANNING,  
17 CONDUCTING OR CONCEALING AN ACT IN THIS COMMONWEALTH  
18 WHICH VIOLATES THIS SECTION.

19 (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED  
20 TO BE USED TO COMMIT AN ACT IN THIS COMMONWEALTH WHICH  
21 VIOLATES THIS SECTION.

22 (2) EACH ASSET WITHIN THIS COMMONWEALTH:

23 (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED  
24 IN PLANNING OR PERPETRATING AN ACT WHICH VIOLATES THIS  
25 SECTION.

26 (II) ACQUIRED OR MAINTAINED WITH THE INTENT AND FOR  
27 THE PURPOSE OF SUPPORTING, PLANNING, CONDUCTING OR  
28 CONCEALING AN ACT WHICH VIOLATES THIS SECTION.

29 (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED  
30 TO BE USED TO COMMIT AN ACT WHICH VIOLATES THIS SECTION.

1 \* \* \*

2 SECTION 2.2. SECTION 3141 OF TITLE 18 IS AMENDED TO READ:

3 § 3141. GENERAL RULE.

4 A PERSON:

5 (1) CONVICTED UNDER SECTION 3121 (RELATING TO RAPE),  
6 3122.1 (RELATING TO STATUTORY SEXUAL ASSAULT), 3123 (RELATING  
7 TO INVOLUNTARY DEVIATE SEXUAL INTERCOURSE), 3124.1 (RELATING  
8 TO SEXUAL ASSAULT), 3125 (RELATING TO AGGRAVATED INDECENT  
9 ASSAULT) OR 3126 (RELATING TO INDECENT ASSAULT); OR

10 (2) REQUIRED TO REGISTER WITH THE PENNSYLVANIA STATE  
11 POLICE UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO  
12 REGISTRATION OF SEXUAL OFFENDERS);

13 MAY BE REQUIRED TO FORFEIT PROPERTY RIGHTS IN ANY PROPERTY OR  
14 ASSETS USED TO IMPLEMENT OR FACILITATE COMMISSION OF THE CRIME  
15 OR CRIMES OF WHICH THE PERSON HAS BEEN CONVICTED. [SUCH PROPERTY  
16 MAY INCLUDE, BUT IS NOT LIMITED TO, A COMPUTER OR COMPUTERS,  
17 TELEPHONE EQUIPMENT, FIREARMS, LICIT OR ILLICIT PRESCRIPTION  
18 DRUGS OR CONTROLLED SUBSTANCES, A MOTOR VEHICLE OR SUCH OTHER  
19 PROPERTY OR ASSETS AS DETERMINED BY THE COURT OF COMMON PLEAS TO  
20 HAVE FACILITATED THE PERSON'S CRIMINAL MISCONDUCT.] THE  
21 FORFEITURE SHALL BE CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH.  
22 58 (RELATING TO FORFEITURE OF ASSETS).

23 SECTION 3. SECTIONS 3142, 3143 AND 3144 OF TITLE 18 ARE  
24 REPEALED:

25 [§ 3142. PROCESS AND SEIZURE.

26 (A) SEIZURE.--PROPERTY SUBJECT TO FORFEITURE UNDER THIS  
27 SECTION MAY BE SEIZED BY LAW ENFORCEMENT AUTHORITY UPON PROCESS  
28 ISSUED BY THE COURT OF COMMON PLEAS HAVING JURISDICTION OVER THE  
29 PERSON OR PROPERTY.

30 (B) SEIZURE WITHOUT PROCESS.--SEIZURE WITHOUT PROCESS MAY BE

1 MADE IF THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A  
2 SEARCH WARRANT AND THERE IS PROBABLE CAUSE TO BE BELIEVE THAT  
3 THE PROPERTY WAS OR IS MATERIAL TO THE CHARGES FOR WHICH THE  
4 ARREST OR SEARCH WARRANT WAS ISSUED. IN SEIZURES WITHOUT  
5 PROCESS, PROCEEDINGS FOR THE ISSUANCE THEREOF SHALL BE  
6 INSTITUTED IMMEDIATELY.

7 (C) RETURN OF PROPERTY.--PROPERTY BELONGING TO SOMEONE OTHER  
8 THAN THE CONVICTED SEX OFFENDER OR REGISTRANT SHALL BE RETURNED  
9 IF THE OFFENSE WAS COMMITTED WITHOUT THE KNOWLEDGE OR CONSENT OF  
10 THE OWNER.

11 § 3143. CUSTODY OF PROPERTY.

12 PROPERTY TAKEN OR DETAINED UNDER THIS SUBCHAPTER IS DEEMED TO  
13 BE THE PROPERTY OF THE LAW ENFORCEMENT AUTHORITY HAVING CUSTODY  
14 THEREOF AND IS SUBJECT ONLY TO THE COURT OF COMMON PLEAS HAVING  
15 JURISDICTION OVER THE CRIMINAL OR FORFEITURE PROCEEDINGS, THE  
16 DISTRICT ATTORNEY IN THE MATTER OR THE ATTORNEY GENERAL.

17 § 3144. DISPOSAL OF PROPERTY.

18 PROPERTY TAKEN OR DETAINED PURSUANT TO THE PROVISIONS OF THIS  
19 SUBCHAPTER SHALL BE SOLD IN THE MANNER OF PROPERTY FORFEITED  
20 UNDER 42 PA.C.S. CH. 68 (RELATING TO FORFEITURES). THE NET  
21 PROCEEDS, AS DETERMINED BY THE LAW ENFORCEMENT AUTHORITY HAVING  
22 CUSTODY THEREOF, SHALL BE UTILIZED FOR INVESTIGATION OR  
23 PROSECUTION OF SEXUAL OFFENSES OR DONATED TO NONPROFIT  
24 CHARITABLE INSTITUTIONS WHICH PROVIDE COUNSELING AND OTHER  
25 ASSISTANCE TO VICTIMS OF SEXUAL OFFENSES.]

26 SECTION 4. SECTIONS 4116(I), 4119(F)(2)(I), 5513(B), 5707,  
27 6314(F), 6501(B)(5) AND (D), 7508(E) AND 7707 OF TITLE 18 ARE  
28 AMENDED TO READ:

29 § 4116. COPYING; RECORDING DEVICES.

30 \* \* \*

1 (I) FORFEITURE.--

2 (1) NO PROPERTY RIGHT SHALL EXIST IN ANY PROPERTY USED  
3 OR INTENDED FOR USE IN THE COMMISSION OF A VIOLATION OF THIS  
4 SECTION OR IN ANY PROCEEDS TRACEABLE TO A VIOLATION OF THIS  
5 SECTION, AND THE SAME SHALL BE DEEMED CONTRABAND AND  
6 FORFEITED IN ACCORDANCE WITH THE PROVISIONS [SET FORTH IN  
7 SECTION 6501(D) (RELATING TO SCATTERING RUBBISH)] OF 42  
8 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

9 [(2) PROPERTY AND PROCEEDS FOUND IN CLOSE PROXIMITY TO  
10 ILLEGALLY RECORDED DEVICES SHALL BE REBUTTABLY PRESUMED TO BE  
11 USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THIS  
12 SECTION.]

13 (3) THE PROVISIONS OF THIS SUBSECTION SHALL NOT, IN ANY  
14 WAY, LIMIT THE RIGHT OF THE COMMONWEALTH TO EXERCISE ANY  
15 RIGHTS OR REMEDIES OTHERWISE PROVIDED BY LAW.

16 § 4119. TRADEMARK COUNTERFEITING.

17 \* \* \*

18 (F) SEIZURE, FORFEITURE AND DISPOSITION.--

19 \* \* \*

20 (2) (I) ALL SEIZED PERSONAL PROPERTY AND PROPERTY  
21 CONSTITUTING OR DERIVED FROM ANY PROCEEDS REFERENCED IN  
22 PARAGRAPH (1) SHALL BE FORFEITED IN ACCORDANCE WITH [THE  
23 PROCEDURES SET FORTH IN SECTION 6501(D) (RELATING TO  
24 SCATTERING RUBBISH)] 42 PA.C.S. CH. 58 (RELATING TO  
25 FORFEITURE OF ASSETS).

26 \* \* \*

27 § 5513. GAMBLING DEVICES, GAMBLING, ETC.

28 \* \* \*

29 (B) CONFISCATION OF GAMBLING DEVICES.--ANY GAMBLING DEVICE  
30 POSSESSED OR USED IN VIOLATION OF THE PROVISIONS OF SUBSECTION

1 (A) [OF THIS SECTION] SHALL BE SEIZED AND FORFEITED TO THE  
2 COMMONWEALTH. [ALL PROVISIONS OF LAW RELATING TO THE SEIZURE,  
3 SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION OF  
4 INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES  
5 UNDER THE PROVISIONS OF THIS SECTION.] THE FORFEITURE SHALL BE  
6 CONDUCTED IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO  
7 FORFEITURE OF ASSETS).

8 \* \* \*

9 § 5707. SEIZURE AND FORFEITURE OF ELECTRONIC, MECHANICAL OR  
10 OTHER DEVICES.

11 ANY ELECTRONIC, MECHANICAL OR OTHER DEVICE POSSESSED, USED,  
12 SENT, DISTRIBUTED, MANUFACTURED, OR ASSEMBLED IN VIOLATION OF  
13 THIS CHAPTER IS HEREBY DECLARED TO BE CONTRABAND AND MAY BE  
14 SEIZED AND FORFEITED TO THE COMMONWEALTH IN ACCORDANCE WITH 42  
15 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

16 § 6314. SENTENCING AND PENALTIES FOR TRAFFICKING DRUGS TO  
17 MINORS.

18 \* \* \*

19 (F) FORFEITURE.--ASSETS AGAINST WHICH A PETITION SEEKING  
20 FORFEITURE [PETITION] HAS BEEN FILED AND IS PENDING OR AGAINST  
21 WHICH THE COMMONWEALTH HAS INDICATED AN INTENTION TO FILE A  
22 [FORFEITURE] PETITION SEEKING FORFEITURE SHALL NOT BE SUBJECT TO  
23 A FINE UNDER THIS SECTION.

24 \* \* \*

25 § 6501. SCATTERING RUBBISH.

26 \* \* \*

27 (B) PENALTY.--

28 \* \* \*

29 (5) ANY VEHICLE, EQUIPMENT OR CONVEYANCE, INCLUDING ANY  
30 PRIVATE AUTOMOBILE AND SMALL TRUCK, USED FOR THE

1 TRANSPORTATION OR DISPOSAL OF TRASH, GARBAGE OR DEBRIS IN THE  
2 COMMISSION OF A SECOND OR SUBSEQUENT OFFENSE UNDER SUBSECTION  
3 (A) (3) MAY BE DEEMED CONTRABAND AND FORFEITED IN ACCORDANCE  
4 WITH [THE PROVISIONS SET FORTH IN THIS SECTION] 42 PA.C.S.  
5 CH. 58 (RELATING TO FORFEITURE OF ASSETS).

6 \* \* \*

7 [(D) FORFEITURE.--

8 (1) PROPERTY SUBJECT TO FORFEITURE UNDER THIS SECTION  
9 MAY BE SEIZED BY THE LAW ENFORCEMENT AUTHORITY UPON PROCESS  
10 ISSUED BY ANY COURT OF COMMON PLEAS HAVING JURISDICTION OVER  
11 THE PROPERTY.

12 (2) PROPERTY TAKEN OR DETAINED UNDER THIS SECTION SHALL  
13 NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO BE IN THE CUSTODY  
14 OF THE LAW ENFORCEMENT AUTHORITY SUBJECT ONLY TO THE ORDERS  
15 AND DECREES OF THE COURT OF COMMON PLEAS HAVING JURISDICTION  
16 OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT ATTORNEY.  
17 WHEN PROPERTY IS SEIZED UNDER THIS SECTION, THE LAW  
18 ENFORCEMENT AUTHORITY SHALL PLACE THE PROPERTY UNDER SEAL AND  
19 EITHER:

20 (I) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY IT;

21 OR

22 (II) REQUIRE THAT THE DISTRICT ATTORNEY TAKE CUSTODY  
23 OF THE PROPERTY AND REMOVE IT TO AN APPROPRIATE LOCATION  
24 FOR DISPOSITION IN ACCORDANCE WITH LAW.

25 (3) WHENEVER PROPERTY IS FORFEITED UNDER THIS SECTION,  
26 THE PROPERTY SHALL BE TRANSFERRED TO THE CUSTODY OF THE  
27 MUNICIPAL CORPORATION. THE MUNICIPAL CORPORATION SHALL SELL  
28 ANY FORFEITED PROPERTY, BUT THE PROCEEDS FROM ANY SUCH SALE  
29 SHALL BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS  
30 FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE,

1 MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE  
2 BALANCE OF THE PROCEEDS SHALL BE USED FOR THE ENFORCEMENT OF  
3 THIS ACT.

4 (4) THE PROCEEDINGS FOR THE FORFEITURE OR CONDEMNATION  
5 OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR IN THIS  
6 SECTION, SHALL BE IN REM, IN WHICH THE COMMONWEALTH SHALL BE  
7 THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A PETITION  
8 SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE JUDICIAL  
9 DISTRICT WHERE THE PROPERTY IS LOCATED, VERIFIED BY OATH OR  
10 AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE  
11 FOLLOWING:

12 (I) A DESCRIPTION OF THE PROPERTY SEIZED.

13 (II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.

14 (III) THE OWNER, IF KNOWN.

15 (IV) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.

16 (V) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO  
17 FORFEITURE PURSUANT TO THIS SUBSECTION AND AN AVERMENT OF  
18 MATERIAL FACTS UPON WHICH THE FORFEITURE ACTION IS BASED.

19 (VI) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE  
20 PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND  
21 CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS  
22 CAUSE BE SHOWN TO THE CONTRARY.

23 (5) A COPY OF THE PETITION REQUIRED UNDER PARAGRAPH (4)  
24 SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OWNER  
25 OR UPON THE PERSON OR PERSONS IN POSSESSION AT THE TIME OF  
26 THE SEIZURE. THE COPY SHALL HAVE ENDORSED A NOTICE, AS  
27 FOLLOWS:

28 TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:

29 YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION,

30 SETTING FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF,

1 THE PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND  
2 YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE THE  
3 ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE  
4 ENTERED AGAINST THE PROPERTY.

5 THE NOTICE SHALL BE SIGNED BY THE DISTRICT ATTORNEY, DEPUTY  
6 DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY.

7 (6) IF THE OWNER OF THE PROPERTY IS UNKNOWN OR THERE WAS  
8 NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR IF THE  
9 OWNER OR SUCH PERSON OR PERSONS IN POSSESSION AT THE TIME OF  
10 THE SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE  
11 JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE  
12 GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY  
13 ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY  
14 WHERE THE PROPERTY SHALL HAVE BEEN SEIZED, ONCE A WEEK FOR  
15 TWO SUCCESSIVE WEEKS. NO OTHER ADVERTISEMENT OF ANY SORT  
16 SHALL BE NECESSARY, ANY OTHER LAW TO THE CONTRARY  
17 NOTWITHSTANDING. THE NOTICE SHALL CONTAIN A STATEMENT OF THE  
18 SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF THE PROPERTY  
19 AND THE PLACE AND DATE OF SEIZURE AND SHALL DIRECT ANY  
20 CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A DATE  
21 GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE LESS THAN 30  
22 DAYS FROM THE DATE OF THE FIRST PUBLICATION. IF NO CLAIMS ARE  
23 FILED WITHIN 30 DAYS OF PUBLICATION, THE PROPERTY SHALL  
24 SUMMARILY FORFEIT TO THE COMMONWEALTH.

25 (7) FOR PURPOSES OF THIS SECTION, THE OWNER OR OTHER  
26 SUCH PERSON CANNOT BE FOUND IN THE JURISDICTION OF THE COURT  
27 IF:

28 (I) A COPY OF THE PETITION IS MAILED TO THE LAST  
29 KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT  
30 DELIVERY;

1 (II) PERSONAL SERVICE IS ATTEMPTED ONCE BUT CANNOT  
2 BE MADE AT THE LAST KNOWN ADDRESS; AND

3 (III) A COPY OF THE PETITION IS LEFT AT THE LAST  
4 KNOWN ADDRESS.

5 (8) THE NOTICE PROVISIONS OF THIS SECTION ARE  
6 AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT GOOD CAUSE,  
7 FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA ON THE  
8 UNDERLYING CRIMINAL CHARGES. FORTY-FIVE DAYS AFTER SUCH A  
9 FAILURE TO APPEAR, IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED,  
10 THE PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

11 (9) UPON THE FILING OF A CLAIM FOR THE PROPERTY SETTING  
12 FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT  
13 ISSUE AND A TIME SHALL BE FIXED FOR THE HEARING.

14 (10) AT THE TIME OF THE HEARING, IF THE COMMONWEALTH  
15 PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION WAS  
16 UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO FORFEITURE  
17 UNDER THIS SECTION, THE BURDEN SHALL BE UPON THE CLAIMANT TO  
18 SHOW:

19 (I) THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY  
20 OR THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF  
21 CONDITIONAL SALE THEREON.

22 (II) THAT THE CLAIMANT LAWFULLY ACQUIRED THE  
23 PROPERTY.

24 (III) THAT IT WAS NOT UNLAWFULLY USED OR POSSESSED  
25 BY HIM. IN THE EVENT THAT IT SHALL APPEAR THAT THE  
26 PROPERTY WAS UNLAWFULLY USED OR POSSESSED BY A PERSON  
27 OTHER THAN THE CLAIMANT, THEN THE CLAIMANT SHALL SHOW  
28 THAT THE UNLAWFUL USE OR POSSESSION WAS WITHOUT HIS  
29 KNOWLEDGE OR CONSENT. SUCH ABSENCE OF KNOWLEDGE OR  
30 CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES

1 PRESENTED.

2 (11) IF A PERSON CLAIMING THE OWNERSHIP OF OR RIGHT OF  
3 POSSESSION TO OR CLAIMING TO BE THE HOLDER OF A CHATTEL  
4 MORTGAGE OR CONTRACT OF CONDITIONAL SALE UPON THE PROPERTY,  
5 THE DISPOSITION OF WHICH IS PROVIDED FOR IN THIS SECTION,  
6 PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT ALLEGING  
7 OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF POSSESSION, A  
8 LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC HEARING, DUE  
9 NOTICE OF WHICH HAVING BEEN GIVEN TO THE DISTRICT ATTORNEY,  
10 THE CLAIMANT SHALL PROVE BY COMPETENT EVIDENCE TO THE  
11 SATISFACTION OF THE COURT THAT THE PROPERTY WAS LAWFULLY  
12 ACQUIRED, POSSESSED AND USED BY HIM OR, IT APPEARING THAT THE  
13 PROPERTY WAS UNLAWFULLY USED BY A PERSON OTHER THAN THE  
14 CLAIMANT, THAT THE UNLAWFUL USE WAS WITHOUT THE CLAIMANT'S  
15 KNOWLEDGE OR CONSENT, THEN THE COURT MAY ORDER THE PROPERTY  
16 RETURNED OR DELIVERED TO THE CLAIMANT. SUCH ABSENCE OF  
17 KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE  
18 CIRCUMSTANCES PRESENTED. OTHERWISE, IT SHALL BE RETAINED FOR  
19 OFFICIAL USE OR SOLD IN ACCORDANCE WITH PARAGRAPH (4).]

20 \* \* \*

21 § 7508. DRUG TRAFFICKING SENTENCING AND PENALTIES.

22 \* \* \*

23 (E) FORFEITURE.--ASSETS AGAINST WHICH A PETITION SEEKING  
24 FORFEITURE [PETITION] HAS BEEN FILED AND IS PENDING OR AGAINST  
25 WHICH THE COMMONWEALTH HAS INDICATED AN INTENTION TO FILE A  
26 [FORFEITURE] PETITION SEEKING FORFEITURE SHALL NOT BE SUBJECT TO  
27 A FINE. NOTHING IN THIS SECTION SHALL PREVENT A FINE FROM BEING  
28 IMPOSED ON ASSETS WHICH HAVE BEEN SUBJECT TO AN UNSUCCESSFUL  
29 FORFEITURE PETITION.

30 \* \* \*

1 § 7707. LOSS OF PROPERTY RIGHTS TO COMMONWEALTH.

2 [(A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT  
3 TO FORFEITURE TO THE COMMONWEALTH, AND NO PROPERTY RIGHT SHALL  
4 EXIST IN THEM:

5 (1) ANY TOOL, IMPLEMENT OR INSTRUMENTALITY, INCLUDING,  
6 BUT NOT LIMITED TO, A VEHICLE OR VEHICLE PART USED OR  
7 POSSESSED IN CONNECTION WITH ANY VIOLATION OF THIS CHAPTER.

8 (2) ALL MATERIALS, PRODUCTS AND EQUIPMENT OF ANY KIND  
9 WHICH ARE USED OR INTENDED FOR USE IN VIOLATION OF THIS  
10 CHAPTER.

11 (3) ALL BOOKS, RECORDS, MICROFILM, TAPES AND DATA WHICH  
12 ARE USED OR INTENDED FOR USE IN VIOLATION OF THIS CHAPTER.

13 (4) ALL MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR  
14 OTHER THINGS OF VALUE USED OR INTENDED TO BE USED TO  
15 FACILITATE ANY VIOLATION OF THIS CHAPTER AND ALL PROCEEDS  
16 TRACEABLE TO ANY TRANSACTIONS IN VIOLATION OF THIS CHAPTER.

17 (5) ALL REAL PROPERTY USED OR INTENDED TO BE USED TO  
18 FACILITATE ANY VIOLATION OF THIS CHAPTER, INCLUDING  
19 STRUCTURES OR OTHER IMPROVEMENTS THEREON AND INCLUDING ANY  
20 RIGHT, TITLE AND INTEREST IN THE WHOLE OR ANY LOT OR TRACT OF  
21 LAND AND ANY APPURTENANCES OR IMPROVEMENTS WHICH ARE USED OR  
22 INTENDED TO BE USED IN ANY MANNER OR PART TO COMMIT OR TO  
23 FACILITATE THE COMMISSION OF A VIOLATION OF THIS CHAPTER.

24 (B) EXCEPTIONS.--

25 (1) NO PROPERTY SHALL BE FORFEITED UNDER THIS SECTION,  
26 TO THE EXTENT OF THE INTEREST OF AN OWNER, BY REASON OF ANY  
27 ACT OR OMISSION ESTABLISHED BY THE OWNER TO HAVE BEEN  
28 COMMITTED OR OMITTED WITHOUT THE KNOWLEDGE OR CONSENT OF THAT  
29 OWNER.

30 (2) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY SHALL

1 BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS PARAGRAPH.  
2 A LIEN WHICH IS FRAUDULENT OR INTENDED TO AVOID FORFEITURE  
3 UNDER THIS SECTION SHALL BE INVALID.

4 (C) PROCESS AND SEIZURE.--PROPERTY SUBJECT TO FORFEITURE  
5 UNDER THIS CHAPTER MAY BE SEIZED BY THE LAW ENFORCEMENT  
6 AUTHORITY UPON PROCESS ISSUED BY A COURT OF COMMON PLEAS HAVING  
7 JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS MAY BE  
8 MADE IF:

9 (1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH  
10 WARRANT OR INSPECTION UNDER 75 PA.C.S. § 6308 (RELATING TO  
11 INVESTIGATION BY POLICE OFFICERS) OR ANY OTHER ADMINISTRATIVE  
12 INSPECTION;

13 (2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT  
14 OF A PROPER JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A  
15 CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS  
16 CHAPTER;

17 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
18 IS DANGEROUS TO HEALTH OR SAFETY; OR

19 (4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
20 HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THIS  
21 CHAPTER.

22 (D) SEIZURE WITHOUT PROCESS.--IN THE EVENT SEIZURE WITHOUT  
23 PROCESS OCCURS AS PROVIDED IN THIS CHAPTER, PROCEEDING FOR THE  
24 ISSUANCE THEREOF SHALL BE INSTITUTED FORTHWITH.

25 (E) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER  
26 THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO  
27 BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY, SUBJECT ONLY  
28 TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING  
29 JURISDICTION OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT  
30 ATTORNEY OR THE OFFICE OF ATTORNEY GENERAL. WHEN PROPERTY IS

1 SEIZED UNDER THIS CHAPTER, THE LAW ENFORCEMENT AUTHORITY SHALL  
2 PLACE THE PROPERTY UNDER SEAL AND EITHER:

3 (1) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY IT; OR

4 (2) REQUIRE THAT THE DISTRICT ATTORNEY OR THE OFFICE OF  
5 ATTORNEY GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE IT  
6 TO AN APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH  
7 LAW.

8 (F) USE OF PROPERTY HELD IN CUSTODY.--

9 (1) WHENEVER PROPERTY IS FORFEITED UNDER THIS CHAPTER,  
10 THE PROPERTY SHALL BE TRANSFERRED TO:

11 (I) THE CUSTODY OF THE DISTRICT ATTORNEY, IF THE LAW  
12 ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR  
13 COUNTY JURISDICTION; OR

14 (II) THE OFFICE OF ATTORNEY GENERAL, IF THE LAW  
15 ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS STATEWIDE  
16 JURISDICTION.

17 (2) THE DISTRICT ATTORNEY OR THE OFFICE OF ATTORNEY  
18 GENERAL, WHERE APPROPRIATE, MAY:

19 (I) RETAIN THE PROPERTY FOR OFFICIAL USE.

20 (II) SELL ANY FORFEITED PROPERTY WHICH IS NOT  
21 REQUIRED TO BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL  
22 TO THE PUBLIC, BUT THE PROCEEDS FROM ANY SUCH SALE MUST  
23 BE USED TO PAY ALL PROPER EXPENSES OF THE PROCEEDING FOR  
24 FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE,  
25 MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE  
26 BALANCE OF THE PROCEEDS SHALL BE DEALT WITH IN ACCORDANCE  
27 WITH SUBSECTIONS (G) AND (H).

28 (G) USE OF CASH, PROPERTY OR PROCEEDS OF PROPERTY.--CASH OR  
29 PROCEEDS OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE  
30 DISTRICT ATTORNEY UNDER SUBSECTION (F) SHALL BE PLACED IN THE

1 OPERATING FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS  
2 ELECTED. THE APPROPRIATE COUNTY AUTHORITY SHALL IMMEDIATELY  
3 RELEASE FROM THE OPERATING FUND, WITHOUT RESTRICTION, A LIKE  
4 AMOUNT FOR THE USE OF THE DISTRICT ATTORNEY IN ENFORCING THE  
5 CRIMINAL LAWS OF THIS COMMONWEALTH. THE ENTITY HAVING BUDGETARY  
6 CONTROL SHALL NOT ANTICIPATE FUTURE FORFEITURES OR PROCEEDS FROM  
7 SUCH FORFEITURES IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE  
8 DISTRICT ATTORNEY.

9 (H) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT  
10 AUTHORITIES.--IF BOTH STATE AND MUNICIPAL LAW ENFORCEMENT  
11 AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE  
12 SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE  
13 PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN THE  
14 DISTRICT ATTORNEY AND THE OFFICE OF ATTORNEY GENERAL.

15 (I) ANNUAL AUDIT OF FORFEITED PROPERTY.--A COUNTY SHALL  
16 PROVIDE, THROUGH THE CONTROLLER, BOARD OF AUDITORS OR OTHER  
17 APPROPRIATE AUDITOR AND THE DISTRICT ATTORNEY, AN ANNUAL AUDIT  
18 OF ALL FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS  
19 SECTION. THE AUDIT SHALL NOT BE MADE PUBLIC BUT SHALL BE  
20 SUBMITTED TO THE OFFICE OF ATTORNEY GENERAL. THE COUNTY SHALL  
21 REPORT ALL FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS  
22 SECTION AND THE DISPOSITION THEREOF TO THE OFFICE OF ATTORNEY  
23 GENERAL BY SEPTEMBER 30 OF EACH YEAR.

24 (J) ANNUAL REPORT; CONFIDENTIAL INFORMATION REGARDING  
25 PROPERTY.--THE OFFICE OF ATTORNEY GENERAL SHALL ANNUALLY SUBMIT  
26 A REPORT TO THE APPROPRIATIONS COMMITTEE OF THE SENATE, THE  
27 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE  
28 JUDICIARY COMMITTEE OF THE SENATE AND THE JUDICIARY COMMITTEE OF  
29 THE HOUSE OF REPRESENTATIVES SPECIFYING THE FORFEITED PROPERTY  
30 OR PROCEEDS THEREOF OBTAINED UNDER THIS SECTION. THE REPORT

1 SHALL GIVE AN ACCOUNT OF ALL PROCEEDS DERIVED FROM THE SALE OF  
2 FORFEITED PROPERTY AND THE USE MADE OF UNSOLD FORFEITED  
3 PROPERTY. THE OFFICE OF ATTORNEY GENERAL SHALL ADOPT PROCEDURES  
4 AND GUIDELINES GOVERNING THE RELEASE OF INFORMATION BY THE  
5 DISTRICT ATTORNEY TO PROTECT THE CONFIDENTIALITY OF FORFEITED  
6 PROPERTY OR PROCEEDS USED IN ONGOING ENFORCEMENT ACTIVITIES.

7 (K) PROCEEDS AND APPROPRIATIONS.--THE PROCEEDS OR FUTURE  
8 PROCEEDS FROM FORFEITED PROPERTY UNDER THIS CHAPTER SHALL BE IN  
9 ADDITION TO ANY APPROPRIATION MADE TO THE OFFICE OF ATTORNEY  
10 GENERAL.] FORFEITURE OF PROPERTY SHALL BE AUTHORIZED FOR  
11 VIOLATION OF THIS CHAPTER AND CONDUCTED IN ACCORDANCE WITH 42  
12 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

13 SECTION 5. SECTION 7708 OF TITLE 18 IS REPEALED:  
14 [§ 7708. PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO  
15 LIENS AND RIGHTS OF LIENHOLDERS.

16 (A) GENERAL PROCEDURE.--THE PROCEEDINGS FOR THE FORFEITURE  
17 OR CONDEMNATION OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR  
18 UNDER THIS CHAPTER, SHALL BE IN REM IN WHICH THE COMMONWEALTH  
19 SHALL BE THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. THE  
20 PENNSYLVANIA RULES OF CIVIL PROCEDURE SHALL APPLY TO ALL  
21 FORFEITURE PROCEEDINGS BROUGHT UNDER THIS CHAPTER. A PETITION  
22 SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE JUDICIAL  
23 DISTRICT WHERE THE PROPERTY IS LOCATED, VERIFIED BY OATH OR  
24 AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE FOLLOWING:

- 25 (1) A DESCRIPTION OF THE PROPERTY SEIZED.  
26 (2) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.  
27 (3) THE OWNER, IF KNOWN.  
28 (4) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.  
29 (5) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO  
30 FORFEITURE UNDER SECTION 7707 (RELATING TO LOSS OF PROPERTY

1 RIGHTS TO COMMONWEALTH) AND AN AVERMENT OF MATERIAL FACTS  
2 UPON WHICH THE FORFEITURE ACTION IS BASED.

3 (6) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE  
4 PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND  
5 CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW UNLESS CAUSE  
6 BE SHOWN TO THE CONTRARY.

7 (B) NOTICE TO PROPERTY OWNERS.--A COPY OF THE PETITION  
8 REQUIRED UNDER SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY  
9 CERTIFIED MAIL ON THE OWNER OR UPON THE PERSON OR PERSONS IN  
10 POSSESSION AT THE TIME OF THE SEIZURE. THE COPY SHALL HAVE  
11 ENDORSED A NOTICE AS FOLLOWS:

12 TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY: YOU ARE  
13 REQUIRED TO FILE AN ANSWER TO THIS PETITION, STATING YOUR  
14 TITLE IN AND RIGHT TO POSSESSION OF THE PROPERTY WITHIN 30  
15 DAYS FROM THE SERVICE OF THIS PETITION, AND YOU ARE ALSO  
16 NOTIFIED THAT, IF YOU FAIL TO FILE AN ANSWER, A DECREE OF  
17 FORFEITURE AND CONDEMNATION WILL BE ENTERED AGAINST THE  
18 PROPERTY.

19 THE NOTICE SHALL BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY  
20 ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY OR  
21 ASSISTANT DISTRICT ATTORNEY.

22 (C) SUBSTITUTE NOTICE.--

23 (1) IF THE OWNER OF THE PROPERTY IS UNKNOWN OR THERE WAS  
24 NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR IF THE  
25 OWNER OR SUCH PERSON OR PERSONS IN POSSESSION AT THE TIME OF  
26 THE SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE  
27 JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE  
28 GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY  
29 ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY  
30 WHERE THE PROPERTY WAS SEIZED ONCE A WEEK FOR TWO SUCCESSIVE

1 WEEKS. NO OTHER ADVERTISEMENT OF ANY SORT SHALL BE NECESSARY,  
2 ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING.

3 (2) THE NOTICE SHALL:

4 (I) CONTAIN A STATEMENT OF THE SEIZURE OF THE  
5 PROPERTY WITH A DESCRIPTION OF THE PROPERTY AND THE PLACE  
6 AND DATE OF SEIZURE; AND

7 (II) DIRECT ANY CLAIMANTS TO THE PROPERTY TO FILE A  
8 CLAIM ON OR BEFORE A DATE GIVEN IN THE NOTICE, WHICH DATE  
9 SHALL NOT BE LESS THAN 30 DAYS FROM THE DATE OF THE FIRST  
10 PUBLICATION.

11 (3) IF NO CLAIMS ARE FILED WITHIN 30 DAYS OF  
12 PUBLICATION, THE PROPERTY SHALL SUMMARILY FORFEIT TO THE  
13 COMMONWEALTH.

14 (D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF  
15 THIS SECTION, THE OWNER OR OTHER SUCH PERSON CANNOT BE FOUND IN  
16 THE JURISDICTION OF THE COURT IF:

17 (1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN  
18 ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT A DELIVERY.

19 (2) A PERSONAL SERVICE IS ATTEMPTED ONCE BUT CANNOT BE  
20 MADE AT THE LAST KNOWN ADDRESS.

21 (3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN  
22 ADDRESS.

23 (E) NOTICE AUTOMATICALLY WAIVED.--

24 (1) THE NOTICE PROVISIONS OF THIS SECTION ARE  
25 AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT GOOD CAUSE,  
26 FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA ON THE  
27 UNDERLYING CRIMINAL CHARGES.

28 (2) FORTY-FIVE DAYS AFTER SUCH A FAILURE TO APPEAR, IF  
29 GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE PROPERTY SHALL  
30 SUMMARILY FORFEIT TO THE COMMONWEALTH.

1 (F) PRESERVATION OF THE PROPERTY SUBJECT FOR FORFEITURE.--

2 (1) UPON APPLICATION OF THE COMMONWEALTH, THE COURT MAY  
3 ENTER A RESTRAINING ORDER OR INJUNCTION, REQUIRE THE  
4 EXECUTION OF A SATISFACTORY PERFORMANCE BOND OR TAKE ANY  
5 OTHER ACTION TO PRESERVE THE AVAILABILITY OF PROPERTY  
6 DESCRIBED IN SECTION 7707 FOR FORFEITURE UNDER THIS SECTION  
7 EITHER:

8 (I) UPON THE FILING OF AN INFORMATION OR AN  
9 INDICTMENT CHARGING A VIOLATION OF THIS CHAPTER FOR WHICH  
10 CRIMINAL FORFEITURE MAY BE ORDERED UNDER THIS CHAPTER AND  
11 ALLEGING THAT THE PROPERTY WITH RESPECT TO WHICH THE  
12 ORDER IS SOUGHT WOULD BE SUBJECT TO FORFEITURE; OR

13 (II) PRIOR TO THE FILING OF SUCH AN INDICTMENT OR  
14 INFORMATION IF, AFTER NOTICE TO PERSONS APPEARING TO HAVE  
15 AN INTEREST IN THE PROPERTY AND AN OPPORTUNITY FOR A  
16 HEARING, THE COURT DETERMINES THAT:

17 (A) THERE IS A SUBSTANTIAL PROBABILITY THAT THE  
18 COMMONWEALTH WILL PREVAIL ON THE ISSUE OF FORFEITURE  
19 AND THAT FAILURE TO ENTER THE ORDER WILL RESULT IN  
20 THE PROPERTY BEING DESTROYED, REMOVED FROM THE  
21 JURISDICTION OF THE COURT OR OTHERWISE MADE  
22 UNAVAILABLE FOR FORFEITURE.

23 (B) THE NEED TO PRESERVE THE AVAILABILITY OF THE  
24 PROPERTY THROUGH THE ENTRY OF THE REQUESTED ORDER  
25 OUTWEIGHS THE HARDSHIP ON ANY PARTY AGAINST WHOM THE  
26 ORDER IS TO BE ENTERED.

27 (2) AN ORDER ENTERED UNDER THIS SUBSECTION SHALL BE  
28 EFFECTIVE FOR NOT MORE THAN 90 DAYS UNLESS EXTENDED BY THE  
29 COURT FOR GOOD CAUSE SHOWN OR UNLESS AN INDICTMENT OR  
30 INFORMATION DESCRIBED IN PARAGRAPH (1) (I) HAS BEEN FILED.

1 (G) TEMPORARY RESTRAINING ORDER.--

2 (1) A TEMPORARY RESTRAINING ORDER UNDER SUBSECTION (F)  
3 MAY BE ENTERED UPON APPLICATION OF THE COMMONWEALTH WITHOUT  
4 NOTICE OR OPPORTUNITY FOR A HEARING WHEN AN INFORMATION OR  
5 INDICTMENT HAS NOT YET BEEN FILED WITH RESPECT TO THE  
6 PROPERTY IF THE COMMONWEALTH DEMONSTRATES THAT:

7 (I) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE  
8 PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT WOULD  
9 BE SUBJECT TO FORFEITURE UNDER THIS CHAPTER; AND

10 (II) THE PROVISION OF NOTICE WILL JEOPARDIZE THE  
11 AVAILABILITY OF THE PROPERTY FOR FORFEITURE.

12 (2) SUCH TEMPORARY ORDER SHALL EXPIRE NOT MORE THAN TEN  
13 DAYS AFTER THE DATE ON WHICH IT IS ENTERED, UNLESS:

14 (I) EXTENDED FOR GOOD CAUSE SHOWN; OR

15 (II) THE PARTY AGAINST WHOM IT IS ENTERED CONSENTS  
16 TO AN EXTENSION FOR A LONGER PERIOD.

17 (3) A HEARING REQUESTED CONCERNING AN ORDER ENTERED  
18 UNDER THIS SUBSECTION SHALL BE HELD AT THE EARLIEST POSSIBLE  
19 TIME AND PRIOR TO THE EXPIRATION OF THE TEMPORARY ORDER.

20 (H) HEARING REGARDING PROPERTY; RULES OF EVIDENCE.--THE  
21 COURT MAY RECEIVE AND CONSIDER AT A HEARING HELD UNDER  
22 SUBSECTION (F) OR (G) EVIDENCE AND INFORMATION THAT WOULD BE  
23 INADMISSIBLE UNDER THE RULES OF EVIDENCE.

24 (I) HEARING TIME SET.--UPON THE FILING OF A CLAIM FOR THE  
25 PROPERTY SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE  
26 DEEMED AT ISSUE, AND A TIME SHALL BE FIXED FOR THE HEARING.

27 (J) OWNER'S BURDEN OF PROOF.--AT THE TIME OF THE HEARING, IF  
28 THE COMMONWEALTH PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION  
29 WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO  
30 FORFEITURE UNDER SECTION 7706 (RELATING TO PRESUMPTIONS), THE

1 BURDEN SHALL BE UPON THE CLAIMANT TO SHOW THAT:

2 (1) THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE  
3 HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE  
4 THEREON.

5 (2) THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

6 (3) IT WAS NOT UNLAWFULLY USED OR POSSESSED BY THE  
7 CLAIMANT. IN THE EVENT THAT IT SHALL APPEAR THAT THE PROPERTY  
8 WAS UNLAWFULLY USED OR POSSESSED BY A PERSON OTHER THAN THE  
9 CLAIMANT, THEN THE CLAIMANT MUST SHOW THAT THE UNLAWFUL USE  
10 OR POSSESSION WAS WITHOUT THE CLAIMANT'S KNOWLEDGE OR  
11 CONSENT. SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE  
12 REASONABLE UNDER THE CIRCUMSTANCES PRESENTED.

13 (K) COURT-ORDERED RELEASE OF PROPERTY.--

14 (1) IF A PERSON CLAIMING THE OWNERSHIP OF OR RIGHT OF  
15 POSSESSION TO OR CLAIMING TO BE THE HOLDER OF A CHATTEL  
16 MORTGAGE OR CONTRACT OF CONDITIONAL SALE UPON THE PROPERTY,  
17 THE DISPOSITION OF WHICH IS PROVIDED FOR IN THIS SECTION,  
18 PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT ALLEGING  
19 OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF POSSESSION, A  
20 LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC HEARING, DUE  
21 NOTICE OF WHICH HAVING BEEN GIVEN TO THE OFFICE OF ATTORNEY  
22 GENERAL OR THE DISTRICT ATTORNEY, THE CLAIMANT PROVES BY  
23 COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT:

24 (I) THAT THE PROPERTY WAS LAWFULLY ACQUIRED,  
25 POSSESSED AND USED BY HIM; OR

26 (II) IF IT APPEARS THAT THE PROPERTY WAS UNLAWFULLY  
27 USED BY A PERSON OTHER THAN THE CLAIMANT, THAT THE  
28 UNLAWFUL USE WAS WITHOUT THE CLAIMANT'S KNOWLEDGE OR  
29 CONSENT,

30 THEN THE COURT MAY ORDER THE PROPERTY RETURNED OR DELIVERED

1 TO THE CLAIMANT.

2 (2) SUCH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE  
3 REASONABLE UNDER THE CIRCUMSTANCES PRESENTED. OTHERWISE, THE  
4 PROPERTY SHALL BE RETAINED FOR OFFICIAL USE OR SOLD IN  
5 ACCORDANCE WITH SECTION 7707(F).]

6 SECTION 6. SECTION 927 OF TITLE 30 IS AMENDED TO READ:

7 § 927. FORFEITURE OF FISH AND DEVICES.

8 (A) GENERAL RULE.--A PERSON CONVICTED OF AN OFFENSE UNDER  
9 THIS TITLE SHALL FORFEIT ANY FISH SEIZED UNDER SECTION 901(6)  
10 (RELATING TO POWERS AND DUTIES OF WATERWAYS [PATROLMEN]  
11 CONSERVATION OFFICERS AND DEPUTIES) AND ANY DEVICE CONFISCATED  
12 UNDER THIS TITLE. FORFEITURES SHALL BE CONDUCTED IN ACCORDANCE  
13 WITH 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

14 [(B) DISPOSITION OF CONFISCATED PROPERTY.--ANY PROPERTY  
15 CONFISCATED BY THE COMMISSION UNDER THIS TITLE SHALL BE SOLD OR  
16 OTHERWISE DISPOSED OF BY THE EXECUTIVE DIRECTOR. THESE  
17 DISPOSITIONS SHALL BE RECORDED ON THE BOOKS OF THE COMMISSION.]

18 SECTION 7. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ:

19 CHAPTER 58  
20 FORFEITURE OF ASSETS

21 SEC.

22 5801. SCOPE OF CHAPTER.

23 5802. CONTROLLED SUBSTANCES FORFEITURE.

24 5803. ASSET FORFEITURE.

25 5804. (RESERVED).

26 5805. FORFEITURE PROCEDURE.

27 5806. MOTION FOR RETURN OF PROPERTY.

28 5806.1. PROCEDURE FOLLOWING ACQUITTAL.

29 5806.2. REPRESENTATION.

30 5807. RESTRICTIONS ON USE.

1 5807.1. PROHIBITION ON ADOPTIVE SEIZURES.

2 5808. EXCEPTIONS.

3 § 5801. SCOPE OF CHAPTER.

4 THIS CHAPTER RELATES TO ASSET FORFEITURE.

5 § 5802. CONTROLLED SUBSTANCES FORFEITURE.

6 THE FOLLOWING SHALL BE SUBJECT TO FORFEITURE TO THE  
7 COMMONWEALTH AND NO PROPERTY RIGHT SHALL EXIST IN THEM:

8 (1) ALL DRUG PARAPHERNALIA, CONTROLLED SUBSTANCES OR  
9 OTHER DRUGS WHICH HAVE BEEN MANUFACTURED, DISTRIBUTED,  
10 DISPENSED OR ACQUIRED IN VIOLATION OF THE ACT OF APRIL 14,  
11 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,  
12 DRUG, DEVICE AND COSMETIC ACT.

13 (2) ALL RAW MATERIALS, PRODUCTS AND EQUIPMENT OF ANY  
14 KIND WHICH ARE USED OR INTENDED FOR USE IN MANUFACTURING,  
15 COMPOUNDING, PROCESSING, DELIVERING, IMPORTING OR EXPORTING  
16 ANY CONTROLLED SUBSTANCE OR OTHER DRUG IN VIOLATION OF THE  
17 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

18 (3) ALL PROPERTY WHICH IS USED OR INTENDED FOR USE AS A  
19 CONTAINER FOR PROPERTY DESCRIBED IN PARAGRAPH (1) OR (2).

20 (4) ALL CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES OR  
21 VESSELS, WHICH ARE USED OR ARE INTENDED FOR USE TO TRANSPORT,  
22 OR IN ANY MANNER TO FACILITATE THE TRANSPORTATION, SALE,  
23 RECEIPT, POSSESSION OR CONCEALMENT OF PROPERTY DESCRIBED IN  
24 PARAGRAPH (1) OR (2), EXCEPT THAT:

25 (I) NO BONA FIDE SECURITY INTEREST RETAINED OR  
26 ACQUIRED UNDER 13 PA.C.S. (RELATING TO COMMERCIAL CODE)  
27 BY ANY MERCHANT DEALING IN NEW OR USED AIRCRAFT, VEHICLES  
28 OR VESSELS, OR RETAINED OR ACQUIRED BY ANY LICENSED OR  
29 REGULATED FINANCE COMPANY, BANK OR LENDING INSTITUTION,  
30 OR BY ANY OTHER BUSINESS REGULARLY ENGAGED IN THE

1 FINANCING OR LENDING ON THE SECURITY OF SUCH AIRCRAFT,  
2 VEHICLES OR VESSELS, SHALL BE SUBJECT TO FORFEITURE OR  
3 IMPAIRMENT; AND

4 (II) IN ORDER TO ESTABLISH THE REQUISITE NEXUS AT A  
5 FORFEITURE HEARING UNDER THIS SECTION, THE COMMONWEALTH  
6 MUST ESTABLISH A VIOLATION OF THE CONTROLLED SUBSTANCE,  
7 DRUG, DEVICE AND COSMETIC ACT OTHER THAN A VIOLATION  
8 UNDER SECTION 13(A) (31) OF THE CONTROLLED SUBSTANCE,  
9 DRUG, DEVICE AND COSMETIC ACT.

10 (5) ALL BOOKS, RECORDS AND RESEARCH, INCLUDING FORMULAS,  
11 MICROFILM, TAPES AND DATA, WHICH ARE USED OR INTENDED FOR USE  
12 IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
13 COSMETIC ACT.

14 (6) (I) ALL OF THE FOLLOWING:

15 (A) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR  
16 OTHER THINGS OF VALUE FURNISHED OR INTENDED TO BE  
17 FURNISHED BY ANY PERSON IN EXCHANGE FOR A CONTROLLED  
18 SUBSTANCE IN VIOLATION OF THE CONTROLLED SUBSTANCE,  
19 DRUG, DEVICE AND COSMETIC ACT, AND ALL PROCEEDS  
20 TRACEABLE TO SUCH AN EXCHANGE.

21 (B) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR  
22 OTHER THINGS OF VALUE USED OR INTENDED TO BE USED TO  
23 FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE,  
24 DRUG, DEVICE AND COSMETIC ACT.

25 (C) REAL PROPERTY USED OR INTENDED TO BE USED TO  
26 FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE,  
27 DRUG, DEVICE AND COSMETIC ACT, INCLUDING STRUCTURES  
28 OR OTHER IMPROVEMENTS THEREON, AND INCLUDING ANY  
29 RIGHT, TITLE AND INTEREST IN THE WHOLE OR ANY LOT OR  
30 TRACT OF LAND AND ANY APPURTENANCES OR IMPROVEMENTS,

1           WHICH IS USED OR INTENDED TO BE USED IN ANY MANNER OR  
2           PART TO COMMIT OR TO FACILITATE THE COMMISSION OF A  
3           VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE  
4           AND COSMETIC ACT, AND THINGS GROWING ON, AFFIXED TO  
5           AND FOUND IN THE LAND. IN ORDER TO ESTABLISH THE  
6           REQUISITE NEXUS AT A FORFEITURE HEARING UNDER THE  
7           CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT,  
8           THE COMMONWEALTH MUST ESTABLISH A VIOLATION OF THE  
9           CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT  
10           OTHER THAN A VIOLATION UNDER SECTION 13 (A) (16) AND  
11           (31) OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
12           COSMETIC ACT.

13           (II) THE MONEY AND NEGOTIABLE INSTRUMENTS FOUND IN  
14           CLOSE PROXIMITY TO CONTROLLED SUBSTANCES POSSESSED IN  
15           VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
16           COSMETIC ACT SHALL BE REBUTTABLY PRESUMED TO BE PROCEEDS  
17           DERIVED FROM THE SELLING OF A CONTROLLED SUBSTANCE IN  
18           VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
19           COSMETIC ACT.

20           (III) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY  
21           SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS  
22           PARAGRAPH. A LIEN WHICH IS FRAUDULENT OR INTENDED TO  
23           AVOID FORFEITURE UNDER THIS SECTION SHALL BE INVALID.

24           (7) ANY FIREARMS, INCLUDING, BUT NOT LIMITED TO, RIFLES,  
25           SHOTGUNS, PISTOLS, REVOLVERS, MACHINE GUNS, ZIP GUNS OR ANY  
26           TYPE OF PROHIBITED OFFENSIVE WEAPON, AS THAT TERM IS DEFINED  
27           IN 18 PA.C.S. § 6105 (RELATING TO PERSONS NOT TO POSSESS,  
28           USE, MANUFACTURE, CONTROL, SELL OR TRANSFER FIREARMS), WHICH  
29           ARE USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE  
30           CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. FIREARMS

1 AS ARE FOUND IN CLOSE PROXIMITY TO ILLEGALLY POSSESSED  
2 CONTROLLED SUBSTANCES SHALL BE REBUTTABLY PRESUMED TO BE USED  
3 OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE  
4 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. ALL  
5 WEAPONS FORFEITED UNDER THIS SECTION SHALL BE IMMEDIATELY  
6 DESTROYED BY THE RECEIVING LAW ENFORCEMENT AGENCY.

7 § 5803. ASSET FORFEITURE.

8 (A) APPLICABILITY.--THIS SECTION SHALL APPLY TO EACH CASE  
9 FOR WHICH FORFEITURE IS EXPRESSLY AUTHORIZED AS A SANCTION.

10 (B) PROCESS AND SEIZURE OF MONEY AND PERSONAL PROPERTY.--  
11 PROPERTY SUBJECT TO FORFEITURE MAY BE SEIZED BY A LAW  
12 ENFORCEMENT AUTHORITY IF:

13 (1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH  
14 UNDER A SEARCH WARRANT OR INSPECTION UNDER AN ADMINISTRATIVE  
15 INSPECTION WARRANT AND THERE IS REASON TO BELIEVE THE  
16 PROPERTY IS SUBJECT TO FORFEITURE.

17 (2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT  
18 OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A  
19 CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS  
20 CHAPTER.

21 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
22 IS DANGEROUS TO HEALTH AND SAFETY AND EXIGENCIES ARE LIKELY  
23 TO RESULT IN THE DESTRUCTION OR REMOVAL OF THE PROPERTY OR IN  
24 THE PROPERTY OTHERWISE BEING MADE UNAVAILABLE FOR FORFEITURE.

25 (4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
26 HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE  
27 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE  
28 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR  
29 ANOTHER OFFENSE FOR WHICH FORFEITURE IS EXPRESSLY AUTHORIZED  
30 AS A SANCTION.

1           (5) THERE IS A WARRANT ISSUED BY A COURT OF COMMON PLEAS  
2           WITH APPROPRIATE JURISDICTION.

3           (6) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
4           IS SUBJECT TO FORFEITURE AND EXIGENCIES ARE LIKELY TO RESULT  
5           IN THE DESTRUCTION OR REMOVAL OF THE PROPERTY.

6           (B.1) PROCESS AND SEIZURE OF REAL PROPERTY.--REAL PROPERTY  
7           SUBJECT TO FORFEITURE UNDER THIS CHAPTER MAY BE SEIZED BY THE  
8           LAW ENFORCEMENT AUTHORITY UPON PROCESS ISSUED BY A COURT OF  
9           COMMON PLEAS HAVING JURISDICTION OVER THE PROPERTY. EXCEPT AS  
10           PROVIDED UNDER THIS SECTION, REAL PROPERTY SUBJECT TO FORFEITURE  
11           SHALL NOT BE SEIZED BEFORE THE ENTRY OF AN ORDER OF FORFEITURE  
12           AND THE OWNERS OR OCCUPANTS OF THE REAL PROPERTY SHALL NOT BE  
13           EVICTED FROM OR OTHERWISE DEPRIVED OF THE USE AND ENJOYMENT OF  
14           REAL PROPERTY THAT IS THE SUBJECT OF A PENDING FORFEITURE  
15           ACTION. THE FOLLOWING SHALL APPLY:

16           (1) THE FILING OF A LIS PENDENS OR THE ISSUANCE OF A  
17           TEMPORARY RESTRAINING ORDER SHALL NOT CONSTITUTE A SEIZURE  
18           UNDER THIS SUBSECTION.

19           (2) REAL PROPERTY MAY BE SEIZED PRIOR TO THE ENTRY OF AN  
20           ORDER OF FORFEITURE IF:

21           (I) THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL  
22           NOTIFIES THE COURT THAT IT INTENDS TO SEIZE THE PROPERTY  
23           BEFORE A TRIAL; AND

24           (II) THE COURT:

25           (A) AFTER CAUSING NOTICE TO BE SERVED ON THE  
26           PROPERTY OWNER AND POSTED ON THE PROPERTY AND  
27           CONDUCTING A HEARING IN WHICH THE PROPERTY OWNER HAS  
28           A MEANINGFUL OPPORTUNITY TO BE HEARD, AUTHORIZES SUCH  
29           SEIZURE; OR

30           (B) MAKES AN EX PARTE DETERMINATION THAT THERE

1 IS PROBABLE CAUSE TO BELIEVE THAT A NEXUS EXISTS  
2 BETWEEN THE PROPERTY AND THE CRIMINAL ACTIVITY FOR  
3 WHICH FORFEITURE IS AUTHORIZED AND THAT EXIGENT  
4 CIRCUMSTANCES ARE PRESENTED THAT PERMIT THE DISTRICT  
5 ATTORNEY OR THE ATTORNEY GENERAL TO SEIZE THE  
6 PROPERTY WITHOUT PRIOR NOTICE AND AN OPPORTUNITY FOR  
7 THE PROPERTY OWNER TO BE HEARD.

8 (3) FOR PURPOSES OF PARAGRAPH (2) (II) (B), EXIGENT  
9 CIRCUMSTANCES ARE PRESENTED WHERE THE DISTRICT ATTORNEY OR  
10 THE ATTORNEY GENERAL DEMONSTRATES THAT LESS RESTRICTIVE  
11 MEASURES, SUCH AS A LIS PENDENS, TEMPORARY RESTRAINING ORDER  
12 OR SECURITY BOND, WOULD NOT SUFFICE TO PROTECT THE  
13 COMMONWEALTH'S INTEREST IN PREVENTING THE SALE, DESTRUCTION  
14 OR CONTINUED UNLAWFUL USE OF THE REAL PROPERTY.

15 (4) IF THE COURT AUTHORIZES A SEIZURE OF REAL PROPERTY  
16 UNDER PARAGRAPH (2) (II) (B), IT SHALL CONDUCT A PROMPT  
17 POSTSEIZURE HEARING AT WHICH THE CLAIMANT SHALL HAVE AN  
18 OPPORTUNITY TO CONTEST THE COMMONWEALTH'S CONTINUING CUSTODY  
19 OF THE PROPERTY.

20 (C) ISSUANCE OF PROCESS.--IF SEIZURE WITHOUT PROCESS OCCURS  
21 UNDER SUBSECTION (B) OR (B.1), PROCEEDINGS FOR THE ISSUANCE OF  
22 PROCESS SHALL BE INSTITUTED AS SOON AS FEASIBLE.

23 (D) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER  
24 THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN AND IS DEEMED TO  
25 BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY SUBJECT ONLY  
26 TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING  
27 JURISDICTION OVER THE FORFEITURE PROCEEDINGS OF THE DISTRICT  
28 ATTORNEY OR THE ATTORNEY GENERAL. WHEN PROPERTY IS SEIZED UNDER  
29 THIS CHAPTER, THE LAW ENFORCEMENT AUTHORITY SHALL PLACE THE  
30 PROPERTY IN A SECURE AREA OR FACILITY AND EITHER:

1           (1) REMOVE THE PROPERTY TO A SECURE AREA OR FACILITY  
2           DESIGNATED BY THE LAW ENFORCEMENT AUTHORITY; OR

3           (2) REQUIRE THAT THE DISTRICT ATTORNEY OR ATTORNEY  
4           GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE THE PROPERTY  
5           TO AN APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH  
6           LAW.

7           (E) RECEIPT.--WHEN PROPERTY IS SEIZED, THE LAW ENFORCEMENT  
8           AUTHORITY SHALL PROVIDE A RECEIPT TO THE PERSON IN POSSESSION OF  
9           THE PROPERTY OR, IN THE ABSENCE OF A PERSON, LEAVE A RECEIPT IN  
10           THE PLACE WHERE THE PROPERTY WAS FOUND, IF REASONABLY POSSIBLE.  
11           THE RECEIPT SHALL PROVIDE NOTICE OF THE RIGHT OF INTEREST  
12           HOLDERS TO SEEK THE RETURN OF THE SEIZED PROPERTY UNDER THIS  
13           CHAPTER. THIS SECTION SHALL NOT APPLY IF LAW ENFORCEMENT IS  
14           OTHERWISE REQUIRED TO PROVIDE A RECEIPT FOR THE PROPERTY.

15           (F) USE OF PROPERTY HELD IN CUSTODY.--IF PROPERTY IS  
16           FORFEITED UNDER THIS CHAPTER, THE PROPERTY SHALL BE TRANSFERRED  
17           TO THE CUSTODY OF THE DISTRICT ATTORNEY, IF THE LAW ENFORCEMENT  
18           AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR COUNTY JURISDICTION,  
19           OR THE ATTORNEY GENERAL, IF THE LAW ENFORCEMENT AUTHORITY  
20           SEIZING THE PROPERTY HAS STATEWIDE JURISDICTION. THE DISTRICT  
21           ATTORNEY OR THE ATTORNEY GENERAL, WHERE APPROPRIATE, MAY:

22           (1) RETAIN THE PROPERTY FOR OFFICIAL USE; OR

23           (2) SELL ANY FORFEITED PROPERTY WHICH IS NOT REQUIRED TO  
24           BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC,  
25           EXCEPT THAT THE PROCEEDS FROM THE SALE SHALL BE USED TO PAY  
26           ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND  
27           SALE, INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY,  
28           ADVERTISING AND COURT COSTS. THE BALANCE OF THE PROCEEDS  
29           SHALL BE USED AND DISTRIBUTED IN ACCORDANCE WITH SUBSECTIONS  
30           (G) AND (H).

1 (F.1) PROHIBITED SALES.--SALE OF FORFEITED PROPERTY TO AN  
2 EMPLOYEE OF THE DISTRICT ATTORNEY OR ATTORNEY GENERAL, AN  
3 INDIVIDUAL RELATED TO AN EMPLOYEE BY BLOOD OR MARRIAGE OR AN  
4 EMPLOYEE OF ANOTHER LAW ENFORCEMENT AUTHORITY IS PROHIBITED.

5 (G) USE OF CASH OR PROCEEDS OF PROPERTY.--EXCEPT AS PROVIDED  
6 UNDER SECTION 5807 (RELATING TO RESTRICTIONS ON USE), CASH OR  
7 PROCEEDS OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE  
8 DISTRICT ATTORNEY UNDER SUBSECTION (F) SHALL BE PLACED IN THE  
9 OPERATING FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS  
10 ELECTED. THE APPROPRIATE COUNTY AUTHORITY SHALL IMMEDIATELY  
11 RELEASE FROM THE OPERATING FUND, WITHOUT RESTRICTION, A LIKE  
12 AMOUNT FOR THE USE OF THE DISTRICT ATTORNEY FOR THE ENFORCEMENT  
13 OF OR PREVENTION OF A VIOLATION OF THE PROVISIONS OF THE  
14 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. THE FUNDS  
15 SHALL BE MAINTAINED IN AN ACCOUNT SEPARATE FROM OTHER REVENUES  
16 OF THE OFFICE. THE ENTITY HAVING BUDGETARY CONTROL SHALL NOT  
17 ANTICIPATE FUTURE FORFEITURES OR PROCEEDS FROM FUTURE  
18 FORFEITURES IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE  
19 DISTRICT ATTORNEY.

20 (H) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT  
21 AUTHORITIES.--IF BOTH STATE AND MUNICIPAL LAW ENFORCEMENT  
22 AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE  
23 SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE  
24 PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN THE  
25 DISTRICT ATTORNEY AND THE ATTORNEY GENERAL.

26 (I) AUTHORIZATION TO UTILIZE PROPERTY.--EXCEPT AS PROVIDED  
27 UNDER SECTION 5807, THE DISTRICT ATTORNEY AND THE ATTORNEY  
28 GENERAL SHALL UTILIZE FORFEITED PROPERTY OR PROCEEDS FROM  
29 FORFEITED PROPERTY FOR THE ENFORCEMENT OF OR PREVENTION OF A  
30 VIOLATION OF THE PROVISIONS OF THE CONTROLLED SUBSTANCE, DRUG,

1 DEVICE AND COSMETIC ACT. IN APPROPRIATE CASES, THE DISTRICT  
2 ATTORNEY AND THE ATTORNEY GENERAL MAY DESIGNATE PROCEEDS FROM  
3 FORFEITED PROPERTY TO BE UTILIZED BY COMMUNITY-BASED DRUG AND  
4 CRIME-FIGHTING PROGRAMS AND FOR RELOCATION AND PROTECTION OF  
5 WITNESSES IN CRIMINAL CASES. FORFEITED REAL PROPERTY MAY BE  
6 TRANSFERRED TO A NONPROFIT ORGANIZATION TO ALLEVIATE BLIGHT  
7 RESULTING FROM VIOLATIONS OF THE CONTROLLED SUBSTANCE, DRUG,  
8 DEVICE AND COSMETIC ACT.

9 (J) ANNUAL AUDIT OF FORFEITED PROPERTY.--EVERY COUNTY IN  
10 THIS COMMONWEALTH SHALL PROVIDE, THROUGH THE CONTROLLER, BOARD  
11 OF AUDITORS OR OTHER APPROPRIATE AUDITOR AND THE DISTRICT  
12 ATTORNEY, AN ANNUAL AUDIT OF ALL FORFEITED PROPERTY AND PROCEEDS  
13 OBTAINED UNDER THIS SECTION. THE AUDIT SHALL NOT BE MADE PUBLIC  
14 BUT SHALL BE SUBMITTED TO THE OFFICE OF ATTORNEY GENERAL. BY  
15 SEPTEMBER 30 OF EACH YEAR, THE COUNTY SHALL REPORT ALL FORFEITED  
16 PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION AND THE  
17 DISPOSITION OF THE PROPERTY DURING THE PRECEDING YEAR TO THE  
18 ATTORNEY GENERAL. THE ATTORNEY GENERAL AND EACH DISTRICT  
19 ATTORNEY SHALL MAINTAIN AND CREATE APPROPRIATE RECORDS TO  
20 ACCOUNT FOR THE PROPERTY FORFEITED IN A FISCAL YEAR AND THE USE  
21 MADE OF THE PROPERTY FORFEITED. EACH AUDIT SHALL INCLUDE:

- 22 (1) THE TYPE OF PROPERTY FORFEITED.  
23 (2) THE APPROXIMATE VALUE.  
24 (3) THE ALLEGED CRIMINAL BEHAVIOR WITH WHICH THE  
25 PROPERTY IS ALLEGEDLY ASSOCIATED.  
26 (4) THE DISPOSITION OR USE OF PROPERTY RECEIVED.  
27 (5) WHETHER THE FORFEITURE WAS RELATED TO A CRIMINAL  
28 CASE.

29 (K) ANNUAL REPORT AND CONFIDENTIAL INFORMATION.--THE  
30 ATTORNEY GENERAL SHALL ANNUALLY SUBMIT A REPORT TO THE

1 APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF THE SENATE  
2 AND TO THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF  
3 THE HOUSE OF REPRESENTATIVES SPECIFYING THE FORFEITED PROPERTY  
4 OR PROCEEDS OF FORFEITED PROPERTY OBTAINED UNDER THIS SECTION  
5 DURING THE FISCAL YEAR BEGINNING JULY 1. THE REPORT SHALL GIVE  
6 AN ACCOUNTING OF ALL PROCEEDS DERIVED FROM THE SALE OF FORFEITED  
7 PROPERTY AND THE USE MADE OF UNSOLD FORFEITED PROPERTY. THE  
8 ATTORNEY GENERAL SHALL ADOPT PROCEDURES AND GUIDELINES GOVERNING  
9 THE RELEASE OF INFORMATION BY THE DISTRICT ATTORNEY TO PROTECT  
10 THE CONFIDENTIALITY OF FORFEITED PROPERTY OR PROCEEDS USED IN  
11 ONGOING DRUG ENFORCEMENT ACTIVITIES, WHICH SHALL BE PUBLIC  
12 INFORMATION.

13 (K.1) REPORTING.--BY NOVEMBER 30 OF EACH YEAR, THE OFFICE OF  
14 ATTORNEY GENERAL SHALL NOTIFY THE APPROPRIATIONS COMMITTEE AND  
15 JUDICIARY COMMITTEE OF THE SENATE AND THE APPROPRIATIONS  
16 COMMITTEE AND JUDICIARY COMMITTEE OF THE HOUSE OF  
17 REPRESENTATIVES OF ANY COUNTY WHICH HAS NOT SUBMITTED AN AUDIT  
18 AND COMPLIED WITH THE REQUIREMENTS IN SUBSECTION (K).

19 (L) PROCEEDS AND APPROPRIATIONS.--THE PROCEEDS OR FUTURE  
20 PROCEEDS FROM FORFEITED PROPERTY UNDER THIS CHAPTER SHALL BE IN  
21 ADDITION TO ANY APPROPRIATION MADE TO THE OFFICE OF ATTORNEY  
22 GENERAL. THE ATTORNEY GENERAL SHALL MAINTAIN PROCEEDS FROM  
23 PROPERTY FORFEITED TO THE OFFICE OF ATTORNEY GENERAL IN AN  
24 ACCOUNT SEPARATE FROM ANY OTHER ACCOUNT MAINTAINED BY THE OFFICE  
25 OF ATTORNEY GENERAL.

26 § 5804. (RESERVED).

27 § 5805. FORFEITURE PROCEDURE.

28 (A) GENERAL PROCEDURE.--THE PROCEEDINGS FOR THE FORFEITURE  
29 OR CONDEMNATION OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR  
30 IN THIS CHAPTER, SHALL BE IN REM, IN WHICH THE COMMONWEALTH

1 SHALL BE THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A  
2 FORFEITURE PETITION SIGNED BY THE ATTORNEY GENERAL, DEPUTY  
3 ATTORNEY GENERAL, DISTRICT ATTORNEY OR ASSISTANT DISTRICT  
4 ATTORNEY SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE  
5 JUDICIAL DISTRICT WHERE THE PROPERTY IS SEIZED OR LOCATED,  
6 VERIFIED BY OATH OR AFFIRMATION OF AN OFFICER. IF CRIMINAL  
7 CHARGES HAVE BEEN FILED AND A PROSECUTION IS PENDING, THE  
8 PETITION SHALL BE FILED IN THE SAME JUDICIAL DISTRICT AS THE  
9 CRIMINAL CHARGES IN ALL INSTANCES EXCEPT THOSE INVOLVING REAL  
10 PROPERTY. EACH PETITION RELATING TO REAL PROPERTY SHALL BE FILED  
11 IN THE JURISDICTION WHERE THE REAL PROPERTY IS LOCATED.

12 (1) EACH FORFEITURE PETITION SHALL CONTAIN THE  
13 FOLLOWING:

14 (I) A DESCRIPTION OF THE PROPERTY ACTUALLY SEIZED OR  
15 CONSTRUCTIVELY SEIZED, INCLUDING, BUT NOT LIMITED TO, IF  
16 KNOWN, THE ADDRESS OF ANY REAL PROPERTY, THE EXACT DOLLAR  
17 AMOUNT OF ANY MONEY, NEGOTIABLE INSTRUMENT OR SECURITIES  
18 AND THE MAKE, MODEL, YEAR AND LICENSE PLATE NUMBER OF ANY  
19 VEHICLE.

20 (II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.

21 (III) THE OWNER, IF KNOWN.

22 (IV) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.

23 (V) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO  
24 FORFEITURE AND AN AVERMENT OF MATERIAL FACTS ON WHICH THE  
25 FORFEITURE ACTION IS BASED.

26 (VI) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE  
27 PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND  
28 CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS  
29 CAUSE IS SHOWN TO THE CONTRARY.

30 (2) THE FOLLOWING SHALL APPLY:

1           (I) A CLAIMANT SHALL FILE AN ANSWER SETTING FORTH A  
2 RIGHT OF POSSESSION OF THE PROPERTY WITHIN 30 DAYS OF  
3 SERVICE OF THE FORFEITURE PETITION. THE ANSWER SHALL BE  
4 IN WRITING AND FILED TO THE DOCKET NUMBER IN THE COURT OF  
5 COMMON PLEAS AND SHALL BE SIGNED BY THE CLAIMANT OR THE  
6 CLAIMANT'S ATTORNEY.

7           (II) THE FOLLOWING SHALL APPLY:

8           (A) PRIOR TO FILING AN ANSWER TO A FORFEITURE  
9 PETITION, A CLAIMANT MAY FILE A MOTION TO STAY THE  
10 FORFEITURE PROCEEDINGS IF THE CLAIMANT HAS BEEN  
11 CRIMINALLY CHARGED IN A CASE ASSOCIATED WITH THE  
12 FORFEITURE MATTER. IF THE MOTION IS PROPERLY FILED,  
13 IT SHALL BE GRANTED.

14           (B) THE CLAIMANT SHALL HAVE 30 DAYS FROM THE  
15 DATE THE STAY IS LIFTED TO FILE AN ANSWER IN  
16 ACCORDANCE WITH THIS PARAGRAPH.

17           (3) AFTER THE ANSWER IS FILED, THE PARTIES SHALL BE  
18 PERMITTED TO CONDUCT DISCOVERY.

19           (B) NOTICE TO PROPERTY OWNERS.--

20           (1) A COPY OF THE FORFEITURE PETITION REQUIRED UNDER  
21 SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY CERTIFIED  
22 MAIL ON THE OWNER, IF KNOWN, AND ON EACH PERSON IN POSSESSION  
23 AT THE TIME OF THE SEIZURE, IF KNOWN. THE COPY SHALL HAVE  
24 ENDORSED A NOTICE, AS FOLLOWS:

25           TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:

26           YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION,  
27 SETTING FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF,  
28 SAID PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND  
29 YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE THE  
30 ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE

1 ENTERED AGAINST THE PROPERTY.

2 (2) THE NOTICE UNDER PARAGRAPH (1) MUST BE SIGNED BY THE  
3 ATTORNEY GENERAL, DEPUTY ATTORNEY GENERAL, DISTRICT ATTORNEY,  
4 DEPUTY DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY AND  
5 CONTAIN ACCURATE CONTACT INFORMATION FOR THE SIGNATORY.

6 (C) SUBSTITUTE NOTICE.--

7 (1) IF THE OWNER OF THE PROPERTY IS UNKNOWN, THERE WAS  
8 NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR THE  
9 OWNER OR EACH PERSON IN POSSESSION AT THE TIME OF THE SEIZURE  
10 CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE  
11 JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE  
12 GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONLY  
13 ONE NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY  
14 WHERE THE PROPERTY HAS BEEN SEIZED, ONCE A WEEK FOR TWO  
15 SUCCESSIVE WEEKS.

16 (2) NOTWITHSTANDING ANY OTHER LAW, NO OTHER  
17 ADVERTISEMENT SHALL BE NECESSARY.

18 (3) THE NOTICE SHALL CONTAIN A STATEMENT OF THE SEIZURE  
19 OF THE PROPERTY WITH A DESCRIPTION OF THE PROPERTY AND THE  
20 PLACE AND DATE OF SEIZURE AND SHALL DIRECT ANY CLAIMANTS TO  
21 THE PROPERTY TO FILE A CLAIM ON OR BEFORE A DATE GIVEN IN THE  
22 NOTICE, WHICH SHALL NOT BE LESS THAN 30 DAYS FROM THE DATE OF  
23 THE FIRST PUBLICATION.

24 (4) IF NO CLAIMS ARE FILED WITHIN 30 DAYS OF  
25 PUBLICATION, THE COMMONWEALTH MAY MOVE FOR DEFAULT JUDGMENT.

26 (D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF  
27 THIS SECTION, THE OWNER OR OTHER PERSON CANNOT BE FOUND IN THE  
28 JURISDICTION OF THE COURT IF:

29 (1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN  
30 ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT DELIVERY;

1           (2) PERSONAL SERVICE IS ATTEMPTED ONCE, BUT CANNOT BE  
2           MADE AT THE LAST KNOWN ADDRESS; AND

3           (3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN  
4           ADDRESS UNLESS THE ADDRESS DOES NOT EXIST.

5           (D.1) PROOF OF NOTICE.--THE COMMONWEALTH SHALL FILE PROOF OF  
6           NOTICE WITH THE COURT. A FORFEITURE ORDER SHALL NOT BE FINAL  
7           UNTIL THE COURT FINDS THAT PROOF EXISTS THAT SATISFIES THE  
8           NOTICE REQUIREMENTS CONTAINED UNDER SUBSECTIONS (B), (C) AND  
9           (D).

10          (E) NOTICE AUTOMATICALLY WAIVED.--THE NOTICE PROVISIONS OF  
11          THIS SECTION SHALL BE AUTOMATICALLY WAIVED IF THE OWNER, WITHOUT  
12          GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA  
13          AND A BENCH WARRANT IS ISSUED ON THE UNDERLYING CRIMINAL  
14          CHARGES. IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE  
15          COMMONWEALTH MAY MOVE FOR DEFAULT JUDGMENT.

16          (F) RELEASE OF SEIZED PROPERTY.--

17           (1) A CLAIMANT TO PROPERTY SUBJECT TO FORFEITURE IS  
18           ENTITLED TO SEEK THE IMMEDIATE RELEASE OF SEIZED PROPERTY IF:

19           (I) THE CLAIMANT HAS A POSSESSORY INTEREST IN THE  
20           PROPERTY;

21           (II) THE CLAIMANT HAS SUFFICIENT TIES TO THE  
22           COMMUNITY TO PROVIDE ASSURANCE THAT THE PROPERTY WILL BE  
23           AVAILABLE AT THE TIME OF THE TRIAL;

24           (III) THE CONTINUED POSSESSION BY THE COMMONWEALTH  
25           PENDING THE FINAL DISPOSITION OF FORFEITURE PROCEEDINGS  
26           WILL CAUSE SUBSTANTIAL HARDSHIP TO THE CLAIMANT, SUCH AS  
27           PREVENTING THE FUNCTIONING OF A LEGITIMATE BUSINESS,  
28           PREVENTING THE CLAIMANT FROM WORKING OR LEAVING THE  
29           CLAIMANT HOMELESS;

30           (IV) THE CLAIMANT'S LIKELY HARDSHIP FROM THE

1 CONTINUED POSSESSION BY THE COMMONWEALTH OF THE SEIZED  
2 PROPERTY OUTWEIGHS THE RISK THAT THE PROPERTY WILL BE  
3 DESTROYED, DAMAGED, LOST, CONCEALED OR TRANSFERRED IF THE  
4 PROPERTY IS RETURNED TO THE CLAIMANT DURING THE PENDENCY  
5 OF THE FORFEITURE PROCEEDING; AND

6 (V) NONE OF THE CONDITIONS UNDER PARAGRAPH (6)  
7 APPLY.

8 (2) THE FOLLOWING SHALL APPLY:

9 (I) THE CLAIMANT UNDER PARAGRAPH (1) MAY FILE A  
10 MOTION IN THE COURT OF COMMON PLEAS IN WHICH THE  
11 FORFEITURE PETITION HAS BEEN FILED OR, IF NO FORFEITURE  
12 PETITION HAS BEEN FILED, IN THE COURT OF COMMON PLEAS IN  
13 THE JURISDICTION IN WHICH THE PROPERTY WAS SEIZED. THE  
14 MOTION SHALL BE SERVED UPON THE DISTRICT ATTORNEY OR  
15 ATTORNEY GENERAL WHO SEIZED THE PROPERTY.

16 (II) THE MOTION DESCRIBED IN THIS SUBSECTION SHALL  
17 SET FORTH THE BASIS ON WHICH THE REQUIREMENTS OF  
18 PARAGRAPH (1) HAVE BEEN MET.

19 (3) IF THE COMMONWEALTH ESTABLISHES THAT THE CLAIMANT'S  
20 MOTION IS MERITLESS, THE COURT SHALL DENY THE MOTION. IN  
21 RESPONSE TO A MOTION UNDER THIS SUBSECTION ON OTHER GROUNDS,  
22 THE COMMONWEALTH MAY, IN APPROPRIATE CASES, SUBMIT EVIDENCE  
23 EX PARTE IN ORDER TO AVOID DISCLOSING ANY MATTER THAT MAY  
24 ADVERSELY AFFECT AN ONGOING CRIMINAL INVESTIGATION OR PENDING  
25 CRIMINAL TRIAL.

26 (4) THE FOLLOWING SHALL APPLY:

27 (I) THE COURT SHALL ORDER THAT THE PROPERTY BE  
28 RETURNED TO THE CLAIMANT PENDING COMPLETION OF THE  
29 FORFEITURE PROCEEDING IF:

30 (A) A MOTION IS FILED UNDER PARAGRAPH (2); AND

1                   (B) FOLLOWING A HEARING, THE CLAIMANT HAS  
2                   DEMONSTRATED THAT THE REQUIREMENTS OF PARAGRAPH (1)  
3                   HAVE BEEN MET.

4                   (II) IF THE MOTION ADDRESSES CURRENCY, MONETARY  
5                   INSTRUMENTS OR ELECTRONIC FUNDS, THE CLAIMANT MUST  
6                   ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE A DOCUMENTED  
7                   AND NONCRIMINAL SOURCE OF THE CURRENCY, MONETARY  
8                   INSTRUMENT OR ELECTRONIC FUND. THE REQUIREMENT UNDER THIS  
9                   SUBPARAGRAPH SHALL BE IN ADDITION TO THE REQUIREMENTS  
10                  UNDER SUBPARAGRAPH (I).

11                  (5) IF THE COURT GRANTS A MOTION UNDER PARAGRAPH (4):

12                  (I) THE COURT SHALL ENTER ANY ORDER NECESSARY TO  
13                  ENSURE THAT THE VALUE OF THE PROPERTY IS MAINTAINED WHILE  
14                  THE FORFEITURE ACTION IS PENDING, INCLUDING:

15                         (A) PERMITTING THE INSPECTION, PHOTOGRAPHING AND  
16                         THE TAKING OF INVENTORY OF THE PROPERTY;

17                         (B) FIXING A BOND AS PROVIDED UNDER PARAGRAPH  
18                         (5.1); AND

19                         (C) REQUIRING THE CLAIMANT TO OBTAIN OR MAINTAIN  
20                         INSURANCE ON THE SUBJECT PROPERTY;

21                         (II) THE COMMONWEALTH MAY PLACE A LIEN AGAINST THE  
22                         PROPERTY OR FILE A LIS PENDENS TO ENSURE THAT THE  
23                         PROPERTY IS NOT TRANSFERRED TO ANOTHER PERSON; AND

24                         (III) IF THE PROPERTY IN QUESTION IS CURRENCY,  
25                         MONETARY INSTRUMENTS OR ELECTRONIC FUNDS, THE COURT SHALL  
26                         FIX A BOND AS PROVIDED UNDER PARAGRAPH (5.1).

27                         (5.1) FOR THE PURPOSES OF PARAGRAPH (5) (I) (B) AND (III),  
28                         THE FOLLOWING SHALL APPLY TO THE FIXING OF A BOND SUFFICIENT  
29                         TO SECURE THE VALUE OF THE PROPERTY:

30                         (I) IF THE VALUE OF THE PROPERTY IS LESS THAN

1           \$2,000, THE COURT MAY ORDER THE FIXING OF A BOND.

2           (II) IF THE VALUE OF THE PROPERTY IS AT LEAST  
3           \$2,000, BUT LESS THAN \$5,000, THE COURT MAY ORDER THE  
4           FIXING OF A BOND. IF THE COURT FINDS THAT THE CLAIMANT  
5           HAS NOT DEMONSTRATED HIS OR HER ABILITY TO ENSURE THE  
6           AVAILABILITY OF THE CASH AT THE TIME OF THE FORFEITURE  
7           TRIAL, THE COURT SHALL ORDER THE FIXING OF A BOND.

8           (III) IF THE VALUE OF THE PROPERTY IS \$5,000 OR  
9           MORE, THE COURT SHALL ORDER THE FIXING OF A BOND.

10          (6) THIS SUBSECTION SHALL NOT APPLY IF THE SEIZED  
11          PROPERTY:

12           (I) IS CONTRABAND;

13           (II) IS EVIDENCE WHICH SHALL INCLUDE, BUT NOT BE  
14           LIMITED TO, PROCEEDS FROM A VIOLATION OF LAW;

15           (III) BY REASON OF DESIGN OR OTHER CHARACTERISTIC,  
16           IS PARTICULARLY SUITED FOR USE IN ILLEGAL ACTIVITIES; OR

17           (IV) IS LIKELY TO BE USED TO COMMIT ADDITIONAL  
18           CRIMINAL ACTS IF RETURNED TO THE CLAIMANT.

19          (I) TRIAL TIME.--ON THE FILING OF AN ANSWER SETTING FORTH A  
20          RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT ISSUE AND A  
21          TIME SHALL BE FIXED FOR THE TRIAL. A JUDICIAL DISTRICT SHALL NOT  
22          REQUIRE THE PARTIES TO PROCESS THROUGH LOCAL RULES OF  
23          ARBITRATION.

24          (J) BURDEN OF PROOF.--

25           (1) THE BURDEN SHALL BE ON THE COMMONWEALTH TO ESTABLISH  
26           IN THE FORFEITURE PETITION THAT THE PROPERTY IS SUBJECT TO  
27           FORFEITURE.

28           (2) IF THE COMMONWEALTH SATISFIES THE BURDEN UNDER  
29           PARAGRAPH (1), THE BURDEN SHALL BE ON THE CLAIMANT TO SHOW BY  
30           A PREPONDERANCE OF THE EVIDENCE THAT:

1           (I) THE CLAIMANT IS THE OWNER OF THE PROPERTY OR THE  
2           HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL  
3           SALE ON THE PROPERTY; AND

4           (II) THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

5           (3) IF THE CLAIMANT SATISFIES THE BURDEN UNDER PARAGRAPH  
6           (2), THE BURDEN SHALL BE ON THE COMMONWEALTH TO ESTABLISH BY  
7           CLEAR AND CONVINCING EVIDENCE THAT THE PROPERTY IN QUESTION  
8           WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO THE  
9           FORFEITURE.

10           (4) IF THE COMMONWEALTH SATISFIES THE BURDEN UNDER  
11           PARAGRAPH (3) AND THE CLAIMANT ALLEGES THAT HE DID NOT HAVE  
12           KNOWLEDGE OF THE UNLAWFUL ACTIVITY OR CONSENT TO THE UNLAWFUL  
13           ACTIVITY, THE BURDEN SHALL BE ON THE COMMONWEALTH TO  
14           ESTABLISH BY CLEAR AND CONVINCING EVIDENCE:

15           (I) THAT THE PROPERTY WAS UNLAWFULLY USED OR  
16           POSSESSED BY THE CLAIMANT; OR

17           (II) IF IT APPEARS THAT THE PROPERTY WAS UNLAWFULLY  
18           USED OR POSSESSED BY A PERSON OTHER THAN THE CLAIMANT,  
19           THAT THE PERSON UNLAWFULLY USED OR POSSESSED THE PROPERTY  
20           WITH THE CLAIMANT'S KNOWLEDGE AND CONSENT.

21           (K) PROPORTIONALITY.--

22           (1) IF THE COURT DETERMINES THAT THE FORFEITURE PETITION  
23           SHALL BE GRANTED, THE CLAIMANT, PRIOR TO ENTRY OF AN ORDER OF  
24           FORFEITURE, MAY PETITION THE COURT TO DETERMINE WHETHER THE  
25           FORFEITURE IS CONSTITUTIONALLY EXCESSIVE.

26           (2) IF THE COURT FINDS THAT THE FORFEITURE IS GROSSLY  
27           DISPROPORTIONAL TO THE OFFENSE, THE COURT SHALL REDUCE OR  
28           ELIMINATE THE FORFEITURE AS NECESSARY TO AVOID A  
29           CONSTITUTIONAL VIOLATION.

30    § 5806. MOTION FOR RETURN OF PROPERTY.

1 (A) MOTION.--THE FOLLOWING SHALL APPLY:

2 (1) A PERSON AGGRIEVED BY A SEARCH AND SEIZURE MAY MOVE  
3 FOR THE RETURN OF THE PROPERTY SEIZED BY FILING A MOTION IN  
4 THE COURT OF COMMON PLEAS IN THE JUDICIAL DISTRICT WHERE THE  
5 PROPERTY IS LOCATED.

6 (2) THE FILER UNDER PARAGRAPH (1) MUST SERVE THE  
7 COMMONWEALTH.

8 (3) UPON PROOF OF SERVICE, THE COURT SHALL SCHEDULE A  
9 PROMPT HEARING ON THE MOTION AND SHALL NOTIFY THE  
10 COMMONWEALTH. A HEARING ON THE MOTION SHALL, TO THE EXTENT  
11 PRACTICABLE AND CONSISTENT WITH THE INTERESTS OF JUSTICE, BE  
12 HELD WITHIN 30 DAYS OF THE FILING OF THE MOTION.

13 (4) THE ASSIGNED JUDGE MAY REQUIRE THE FILING OF AN  
14 ANSWER.

15 (5) IF A FORFEITURE PETITION WAS FILED BY THE  
16 COMMONWEALTH BEFORE THE FILING OF A MOTION FOR RETURN OF  
17 PROPERTY, THE MOTION SHALL BE ASSIGNED TO THE SAME JUDGE FOR  
18 DISPOSITION, AS PRACTICABLE.

19 (B) CONTENTS OF MOTION.--A MOTION UNDER THIS SECTION SHALL:

20 (1) BE SIGNED BY THE PETITIONER UNDER PENALTY OF  
21 PERJURY.

22 (2) DESCRIBE THE NATURE AND EXTENT OF THE PETITIONER'S  
23 RIGHT, TITLE OR INTEREST IN THE PROPERTY, THE TIME AND  
24 CIRCUMSTANCES OF THE PETITIONER'S ACQUISITION OF THE RIGHT,  
25 TITLE OR INTEREST IN THE PROPERTY AND ANY ADDITIONAL FACTS  
26 SUPPORTING THE PETITIONER'S CLAIM. THE INFORMATION SHALL  
27 INCLUDE:

28 (I) A DESCRIPTION OF THE PROPERTY SEIZED.

29 (II) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED,  
30 IF KNOWN.

1           (III) THE OWNER, IF KNOWN.

2           (IV) THE PERSON IN POSSESSION, IF KNOWN.

3           (3) IDENTIFY THE RELIEF SOUGHT, WHICH MAY INCLUDE:

4           (I) RETURN OF THE PETITIONER'S PROPERTY;

5           (II) REIMBURSEMENT FOR THE PETITIONER'S LEGAL  
6           INTEREST IN THE PROPERTY;

7           (III) SEVERANCE OF THE PETITIONER'S PROPERTY FROM  
8           THE FORFEITED PROPERTY;

9           (IV) ANY RELIEF THE COURT DEEMS APPROPRIATE AND  
10          JUST; OR

11          (V) ANY RELIEF THE COURT DEEMS APPROPRIATE.

12 § 5806.1. PROCEDURE FOLLOWING ACQUITTAL.

13          (A) PRESUMPTION AGAINST FORFEITURE.--IF THE OWNER OF THE  
14          PROPERTY IS ACQUITTED OF ALL CRIMES WHICH AUTHORIZE FORFEITURE,  
15          THERE SHALL BE A REBUTTABLE PRESUMPTION THAT THE PROPERTY WAS  
16          LAWFULLY USED OR POSSESSED BY THE CLAIMANT.

17          (B) AUTOMATIC MOTION.--IF THE OWNER OF THE PROPERTY IS  
18          ACQUITTED OF ALL CRIMES WHICH AUTHORIZE FORFEITURE, THE OWNER  
19          SHALL BE ENTITLED TO A HEARING UNDER SECTION 5806 (RELATING TO  
20          MOTION FOR RETURN OF PROPERTY).

21          (C) APPLICABILITY.--IF THE FORFEITURE PETITION RELATING TO  
22          THE PROPERTY AT ISSUE HAS ALREADY BEEN LITIGATED, THIS SECTION  
23          SHALL NOT APPLY.

24          (D) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM  
25          "ACQUITTAL" SHALL NOT INCLUDE ACCEPTANCE OF ACCELERATED  
26          REHABILITATIVE DISPOSITION OR ANY OTHER FORM OF PRELIMINARY  
27          DISPOSITION, INCLUDING PLEA AGREEMENTS.

28 § 5806.2. REPRESENTATION.

29          NOTWITHSTANDING THE ACT OF DECEMBER 2, 1968 (P.L.1144,  
30          NO.358), KNOWN AS THE PUBLIC DEFENDER ACT, THE FOLLOWING SHALL

1 APPLY:

2 (1) IF A PERSON WITH STANDING TO CONTEST THE FORFEITURE  
3 OF PROPERTY IN A CIVIL FORFEITURE PROCEEDING UNDER THIS  
4 CHAPTER IS FINANCIALLY UNABLE TO OBTAIN REPRESENTATION BY AN  
5 ATTORNEY AND THE PROPERTY SUBJECT TO FORFEITURE IS REAL  
6 PROPERTY, THE COURT, AT THE REQUEST OF THE PERSON, SHALL  
7 ENSURE THAT THE PERSON IS REPRESENTED BY AN ATTORNEY WITH  
8 RESPECT TO THE CLAIM.

9 (2) IF A PERSON WHO HAS NOT BEEN CHARGED IN A RELATED  
10 CRIMINAL CASE AND WHO HAS STANDING TO CONTEST THE FORFEITURE  
11 OF PROPERTY IN A CIVIL FORFEITURE PROCEEDING UNDER THIS  
12 CHAPTER IS FINANCIALLY UNABLE TO OBTAIN REPRESENTATION BY AN  
13 ATTORNEY, THE COURT MAY AUTHORIZE AN ATTORNEY TO REPRESENT  
14 THAT PERSON WITH RESPECT TO THE CLAIM.

15 (3) IN DETERMINING WHETHER TO AUTHORIZE AN ATTORNEY TO  
16 REPRESENT A PERSON UNDER THIS SECTION, THE COURT SHALL TAKE  
17 INTO ACCOUNT THE FOLLOWING FACTORS:

18 (I) THE PERSON'S STANDING TO CONTEST THE FORFEITURE;  
19 AND

20 (II) WHETHER THE CLAIM APPEARS TO BE MADE IN GOOD  
21 FAITH.

22 § 5807. RESTRICTIONS ON USE.

23 THE AUDIT REQUIRED UNDER SECTION 5803(J) (RELATING TO ASSET  
24 FORFEITURE) SHALL INCLUDE A COPY OF EACH EQUITABLE SHARING  
25 AGREEMENT AND CERTIFICATION FORM FILED WITH THE UNITED STATES  
26 DEPARTMENT OF JUSTICE WITHIN THE LAST 12 MONTHS. PROPERTY, MONEY  
27 OR OTHER THINGS OF VALUE RECEIVED BY A STATE LAW ENFORCEMENT  
28 AUTHORITY UNDER ANY OF THE FOLLOWING MAY NOT BE USED FOR  
29 CONTRIBUTIONS TO POLITICAL CAMPAIGNS, EXPENSES RELATED TO  
30 JUDICIAL TRAININGS OR THE PURCHASE OF ALCOHOLIC BEVERAGES:

1           (1) A FEDERAL LAW WHICH AUTHORIZES THE SHARING OR  
2           TRANSFER OF ALL OR A PORTION OF FORFEITED PROPERTY OR THE  
3           PROCEEDS OF THE SALE OF FORFEITED PROPERTY TO A STATE LAW  
4           ENFORCEMENT AUTHORITY.

5           (2) EXCEPT FOR SECTION 5802 (RELATING TO CONTROLLED  
6           SUBSTANCES FORFEITURE), A FORFEITURE AUTHORIZED UNDER 18  
7           PA.C.S. (RELATING TO CRIMES AND OFFENSES) OR 4 PA.C.S.  
8           (RELATING TO AMUSEMENTS).

9    § 5807.1. PROHIBITION ON ADOPTIVE SEIZURES.

10       STATE LAW ENFORCEMENT AUTHORITIES SHALL NOT REFER SEIZED  
11       PROPERTY TO A FEDERAL AGENCY SEEKING THE ADOPTION BY THE FEDERAL  
12       AGENCY OF THE SEIZED PROPERTY. NOTHING UNDER THIS CHAPTER SHALL  
13       PROHIBIT THE FEDERAL GOVERNMENT OR ANY OF ITS AGENCIES FROM  
14       SEEKING FEDERAL FORFEITURE.

15    § 5808. EXCEPTIONS.

16       (A) FORFEITURES EXEMPTED.--FORFEITURES OF PROPERTY SHALL BE  
17       CONDUCTED IN ACCORDANCE WITH THIS CHAPTER, EXCEPT FOR  
18       FORFEITURES AUTHORIZED BY:

19           (1) SECTION 3 OF THE ACT OF JULY 8, 1978 (P.L.752,  
20           NO.140), KNOWN AS THE PUBLIC EMPLOYEE PENSION FORFEITURE ACT.

21           (2) SECTION 6 OF THE ACT OF APRIL 6, 1980 (P.L.102,  
22           NO.39), REFERRED TO AS THE AGRICULTURAL LAND ACQUISITION BY  
23           ALIENS LAW.

24           (3) SECTIONS 207, 211 AND 505-A OF THE ACT OF DECEMBER  
25           7, 1982 (P.L.784, NO.225), KNOWN AS THE DOG LAW.

26           (4) 18 PA.C.S. § 3021 (RELATING TO ASSET FORFEITURE);

27           (5) 18 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS);

28           (6) 18 PA.C.S. § 6110.1 (RELATING TO POSSESSION OF  
29           FIREARM BY MINOR);

30           (7) 18 PA.C.S. § 6321 (RELATING TO TRANSMISSION OF

1 SEXUALLY EXPLICIT IMAGES BY MINOR);

2 (8) 27 PA.C.S. § 6208 (RELATING TO PENALTIES);

3 (9) 37 PA.C.S. § 511 (RELATING TO CRIMINAL PENALTIES);

4 (10) 75 PA.C.S. § 9405 (RELATING TO FORFEITURES; PROCESS  
5 AND PROCEDURES).

6 (B) CONTRABAND.--NOTHING IN THIS CHAPTER SHALL BE CONSTRUED  
7 TO APPLY TO THE FORFEITURE OF THE FOLLOWING:

8 (1) ITEMS BEARING A COUNTERFEIT MARK UNDER 18 PA.C.S. §  
9 4119 (RELATING TO TRADEMARK COUNTERFEITING).

10 (2) LIQUOR, ALCOHOL OR MALT OR BREWED BEVERAGES  
11 ILLEGALLY MANUFACTURED OR POSSESSED UNDER SECTION 601 OF THE  
12 ACT OF APRIL 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR  
13 CODE.

14 (3) UNLAWFULLY STAMPED CIGARETTES UNDER SECTION 307 OF  
15 THE ACT OF DECEMBER 30, 2003 (P.L.441, NO.64), KNOWN AS THE  
16 TOBACCO PRODUCT MANUFACTURER DIRECTORY ACT.

17 (4) UNSTAMPED CIGARETTES UNDER SECTION 1285 OF THE ACT  
18 OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE  
19 OF 1971.

20 (C) ABANDONED AND UNCLAIMED PROPERTY.--THIS CHAPTER SHALL  
21 NOT APPLY TO ABANDONED OR UNCLAIMED PROPERTY UNDER ARTICLE  
22 XIII.1 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS  
23 THE FISCAL CODE. A DEFENDANT IN A CRIMINAL CASE WHO DISCLAIMS  
24 OWNERSHIP OF PROPERTY DURING THE CRIMINAL CASE MAY NOT CLAIM  
25 OWNERSHIP DURING A SUBSEQUENT FORFEITURE PROCEEDING.

26 SECTION 8. SECTION 6801(A) AND (B) OF TITLE 42 ARE AMENDED  
27 TO READ:

28 § 6801. CONTROLLED SUBSTANCES FORFEITURE.

29 [(A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT  
30 TO FORFEITURE TO THE COMMONWEALTH AND NO PROPERTY RIGHT SHALL

1 EXIST IN THEM:

2 (1) ALL DRUG PARAPHERNALIA, CONTROLLED SUBSTANCES OR  
3 OTHER DRUGS WHICH HAVE BEEN MANUFACTURED, DISTRIBUTED,  
4 DISPENSED OR ACQUIRED IN VIOLATION OF THE ACT OF APRIL 14,  
5 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,  
6 DRUG, DEVICE AND COSMETIC ACT.

7 (2) ALL RAW MATERIALS, PRODUCTS AND EQUIPMENT OF ANY  
8 KIND WHICH ARE USED, OR INTENDED FOR USE, IN MANUFACTURING,  
9 COMPOUNDING, PROCESSING, DELIVERING, IMPORTING OR EXPORTING  
10 ANY CONTROLLED SUBSTANCE OR OTHER DRUG IN VIOLATION OF THE  
11 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

12 (3) ALL PROPERTY WHICH IS USED, OR INTENDED FOR USE, AS  
13 A CONTAINER FOR PROPERTY DESCRIBED IN PARAGRAPH (1) OR (2).

14 (4) ALL CONVEYANCES, INCLUDING AIRCRAFT, VEHICLES OR  
15 VESSELS, WHICH ARE USED OR ARE INTENDED FOR USE TO TRANSPORT,  
16 OR IN ANY MANNER TO FACILITATE THE TRANSPORTATION, SALE,  
17 RECEIPT, POSSESSION OR CONCEALMENT OF, PROPERTY DESCRIBED IN  
18 PARAGRAPH (1) OR (2), EXCEPT THAT:

19 (I) NO CONVEYANCE USED BY ANY PERSON AS A COMMON  
20 CARRIER IN THE TRANSACTION OF BUSINESS AS A COMMON  
21 CARRIER SHALL BE FORFEITED UNDER THE PROVISIONS OF THIS  
22 SECTION UNLESS IT SHALL APPEAR THAT THE OWNER OR OTHER  
23 PERSON IN CHARGE OF SUCH CONVEYANCE WAS A CONSENTING  
24 PARTY OR PRIVY TO A VIOLATION OF THE CONTROLLED  
25 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT;

26 (II) NO CONVEYANCE SHALL BE FORFEITED UNDER THE  
27 PROVISIONS OF THIS SECTION BY REASON OF ANY ACT OR  
28 OMISSION ESTABLISHED BY THE OWNER THEREOF TO HAVE BEEN  
29 COMMITTED OR OMITTED WITHOUT HIS KNOWLEDGE OR CONSENT,  
30 WHICH ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE

1 UNDER THE CIRCUMSTANCES PRESENTED;

2 (III) NO BONA FIDE SECURITY INTEREST RETAINED OR  
3 ACQUIRED UNDER 13 PA.C.S. (RELATING TO COMMERCIAL CODE)  
4 BY ANY MERCHANT DEALING IN NEW OR USED AIRCRAFT, VEHICLES  
5 OR VESSELS, OR RETAINED OR ACQUIRED BY ANY LICENSED OR  
6 REGULATED FINANCE COMPANY, BANK OR LENDING INSTITUTION,  
7 OR BY ANY OTHER BUSINESS REGULARLY ENGAGED IN THE  
8 FINANCING OF, OR LENDING ON THE SECURITY OF, SUCH  
9 AIRCRAFT, VEHICLES OR VESSELS, SHALL BE SUBJECT TO  
10 FORFEITURE OR IMPAIRMENT; AND

11 (IV) NO CONVEYANCE SHALL BE FORFEITED UNDER THIS  
12 SECTION FOR VIOLATION OF SECTION 13(A) (31) OF THE  
13 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

14 (5) ALL BOOKS, RECORDS AND RESEARCH, INCLUDING FORMULAS,  
15 MICROFILM, TAPES AND DATA, WHICH ARE USED OR INTENDED FOR USE  
16 IN VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
17 COSMETIC ACT.

18 (6) (I) ALL OF THE FOLLOWING:

19 (A) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR  
20 OTHER THINGS OF VALUE FURNISHED OR INTENDED TO BE  
21 FURNISHED BY ANY PERSON IN EXCHANGE FOR A CONTROLLED  
22 SUBSTANCE IN VIOLATION OF THE CONTROLLED SUBSTANCE,  
23 DRUG, DEVICE AND COSMETIC ACT, AND ALL PROCEEDS  
24 TRACEABLE TO SUCH AN EXCHANGE.

25 (B) MONEY, NEGOTIABLE INSTRUMENTS, SECURITIES OR  
26 OTHER THINGS OF VALUE USED OR INTENDED TO BE USED TO  
27 FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE,  
28 DRUG, DEVICE AND COSMETIC ACT.

29 (C) REAL PROPERTY USED OR INTENDED TO BE USED TO  
30 FACILITATE ANY VIOLATION OF THE CONTROLLED SUBSTANCE,

1 DRUG, DEVICE AND COSMETIC ACT, INCLUDING STRUCTURES  
2 OR OTHER IMPROVEMENTS THEREON, AND INCLUDING ANY  
3 RIGHT, TITLE AND INTEREST IN THE WHOLE OR ANY LOT OR  
4 TRACT OF LAND AND ANY APPURTENANCES OR IMPROVEMENTS,  
5 WHICH IS USED, OR INTENDED TO BE USED, IN ANY MANNER  
6 OR PART, TO COMMIT, OR TO FACILITATE THE COMMISSION  
7 OF, A VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG,  
8 DEVICE AND COSMETIC ACT, AND THINGS GROWING ON,  
9 AFFIXED TO AND FOUND IN THE LAND.

10 (II) NO PROPERTY SHALL BE FORFEITED UNDER THIS  
11 PARAGRAPH, TO THE EXTENT OF THE INTEREST OF AN OWNER, BY  
12 REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE OWNER TO  
13 HAVE BEEN COMMITTED OR OMITTED WITHOUT THE KNOWLEDGE OR  
14 CONSENT OF THAT OWNER. SUCH MONEY AND NEGOTIABLE  
15 INSTRUMENTS FOUND IN CLOSE PROXIMITY TO CONTROLLED  
16 SUBSTANCES POSSESSED IN VIOLATION OF THE CONTROLLED  
17 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT SHALL BE  
18 REBUTTABLY PRESUMED TO BE PROCEEDS DERIVED FROM THE  
19 SELLING OF A CONTROLLED SUBSTANCE IN VIOLATION OF THE  
20 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

21 (III) NO VALID LIEN OR ENCUMBRANCE ON REAL PROPERTY  
22 SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT UNDER THIS  
23 PARAGRAPH. A LIEN WHICH IS FRAUDULENT OR INTENDED TO  
24 AVOID FORFEITURE UNDER THIS SECTION SHALL BE INVALID.

25 (7) ANY FIREARMS, INCLUDING, BUT NOT LIMITED TO, RIFLES,  
26 SHOTGUNS, PISTOLS, REVOLVERS, MACHINE GUNS, ZIP GUNS OR ANY  
27 TYPE OF PROHIBITED OFFENSIVE WEAPON, AS THAT TERM IS DEFINED  
28 IN 18 PA.C.S. (RELATING TO CRIMES AND OFFENSES), WHICH ARE  
29 USED OR INTENDED FOR USE TO FACILITATE A VIOLATION OF THE  
30 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT. SUCH

1 OPERABLE FIREARMS AS ARE FOUND IN CLOSE PROXIMITY TO  
2 ILLEGALLY POSSESSED CONTROLLED SUBSTANCES SHALL BE REBUTTABLY  
3 PRESUMED TO BE USED OR INTENDED FOR USE TO FACILITATE A  
4 VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
5 COSMETIC ACT. ALL WEAPONS FORFEITED UNDER THIS SECTION SHALL  
6 BE IMMEDIATELY DESTROYED BY THE RECEIVING LAW ENFORCEMENT  
7 AGENCY.

8 (B) PROCESS AND SEIZURE.--PROPERTY SUBJECT TO FORFEITURE  
9 UNDER THIS CHAPTER MAY BE SEIZED BY THE LAW ENFORCEMENT  
10 AUTHORITY UPON PROCESS ISSUED BY ANY COURT OF COMMON PLEAS  
11 HAVING JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS  
12 MAY BE MADE IF:

13 (1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH  
14 UNDER A SEARCH WARRANT OR INSPECTION UNDER AN ADMINISTRATIVE  
15 INSPECTION WARRANT;

16 (2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT  
17 OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A  
18 CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS  
19 CHAPTER;

20 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
21 IS DANGEROUS TO HEALTH OR SAFETY; OR

22 (4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
23 HAS BEEN USED OR IS INTENDED TO BE USED IN VIOLATION OF THE  
24 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.]

25 \* \* \*

26 SECTION 8.1. SECTIONS 6801.1 AND 6802 OF TITLE 42 ARE  
27 REPEALED:

28 [§ 6801.1. TERRORISM FORFEITURE.

29 (A) FORFEITURES GENERALLY.--THE FOLLOWING SHALL BE SUBJECT  
30 TO FORFEITURES TO THE COMMONWEALTH, AND NO PROPERTY RIGHT SHALL

1 EXIST IN THEM:

2 (1) ALL ASSETS, FOREIGN OR DOMESTIC:

3 (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED  
4 IN PLANNING OR PERPETRATING AN ACT IN THIS COMMONWEALTH  
5 WHICH VIOLATES 18 PA.C.S. § 2717 (RELATING TO TERRORISM)  
6 AND ALL ASSETS, FOREIGN OR DOMESTIC, AFFORDING A PERSON A  
7 SOURCE OF INFLUENCE OVER SUCH AN ENTITY OR ORGANIZATION.

8 (II) ACQUIRED OR MAINTAINED BY A PERSON WITH THE  
9 INTENT AND FOR THE PURPOSE OF SUPPORTING, PLANNING,  
10 CONDUCTING OR CONCEALING AN ACT IN THIS COMMONWEALTH  
11 WHICH VIOLATES 18 PA.C.S. § 2717.

12 (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED  
13 TO BE USED TO COMMIT AN ACT IN THIS COMMONWEALTH WHICH  
14 VIOLATES 18 PA.C.S. § 2717.

15 (2) ALL ASSETS WITHIN THIS COMMONWEALTH:

16 (I) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION ENGAGED  
17 IN PLANNING OR PERPETRATING AN ACT WHICH VIOLATES 18  
18 PA.C.S. § 2717.

19 (II) ACQUIRED OR MAINTAINED WITH THE INTENT AND FOR  
20 THE PURPOSE OF SUPPORTING, PLANNING, CONDUCTING OR  
21 CONCEALING AN ACT WHICH VIOLATES 18 PA.C.S. § 2717.

22 (III) DERIVED FROM, INVOLVED IN OR USED OR INTENDED  
23 TO BE USED TO COMMIT AN ACT WHICH VIOLATES 18 PA.C.S. §  
24 2717.

25 (B) PROCESS AND SEIZURES.--PROPERTY SUBJECT TO FORFEITURE  
26 UNDER THIS SECTION MAY BE SEIZED BY THE LAW ENFORCEMENT  
27 AUTHORITY UPON PROCESS ISSUED BY A COURT OF COMMON PLEAS HAVING  
28 JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT PROCESS MAY BE  
29 MADE IF ANY OF THE FOLLOWING APPLY:

30 (1) THE SEIZURE IS INCIDENT TO AN ARREST, A SEARCH UNDER

1 A SEARCH WARRANT OR AN INSPECTION UNDER AN ADMINISTRATIVE  
2 INSPECTION WARRANT.

3 (2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT  
4 OF A PRIOR JUDGMENT IN FAVOR OF THE COMMONWEALTH IN A  
5 CRIMINAL INJUNCTION OR FORFEITURE PROCEEDING UNDER THIS  
6 CHAPTER.

7 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
8 IS DANGEROUS TO HEALTH OR SAFETY.

9 (4) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY  
10 HAS BEEN OR IS INTENDED TO BE USED IN THE COMMISSION OF AN  
11 ACT WHICH VIOLATES 18 PA.C.S. § 2717.

12 (C) SEIZURE WITHOUT PROCESS.--IN THE EVENT SEIZURE IS MADE  
13 WITHOUT PROCESS, PROCEEDINGS FOR THE ISSUANCE OF PROCESS SHALL  
14 BE INSTITUTED FORTHWITH.

15 (D) CUSTODY OF PROPERTY.--PROPERTY TAKEN OR DETAINED UNDER  
16 THIS SECTION SHALL NOT BE SUBJECT TO REPLEVIN BUT IS DEEMED TO  
17 BE IN THE CUSTODY OF THE LAW ENFORCEMENT AUTHORITY, SUBJECT ONLY  
18 TO THE ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING  
19 JURISDICTION OVER THE FORFEITURE PROCEEDINGS AND OF THE DISTRICT  
20 ATTORNEY OR THE ATTORNEY GENERAL. WHEN PROPERTY IS SEIZED UNDER  
21 THIS SECTION, THE LAW ENFORCEMENT AUTHORITY SHALL PLACE THE  
22 PROPERTY UNDER SEAL AND EITHER:

23 (1) REMOVE THE PROPERTY TO A PLACE DETERMINED BY THE LAW  
24 ENFORCEMENT AUTHORITY; OR

25 (2) REQUEST THAT THE DISTRICT ATTORNEY OR ATTORNEY  
26 GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE IT TO AN  
27 APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.

28 (E) USE OF PROPERTY HELD IN CUSTODY.--WHENEVER PROPERTY IS  
29 FORFEITED UNDER THIS SECTION, IT SHALL BE TRANSFERRED TO THE  
30 CUSTODY OF THE DISTRICT ATTORNEY IF THE LAW ENFORCEMENT

1 AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR COUNTY JURISDICTION  
2 OR OF THE ATTORNEY GENERAL IF THE LAW ENFORCEMENT AUTHORITY  
3 SEIZING THE PROPERTY HAS STATEWIDE JURISDICTION. THE DISTRICT  
4 ATTORNEY OR THE ATTORNEY GENERAL, WHERE APPROPRIATE, MAY:

5 (1) RETAIN THE PROPERTY FOR OFFICIAL USE.

6 (2) SELL ANY FORFEITED PROPERTY WHICH IS NOT REQUIRED TO  
7 BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO THE PUBLIC,  
8 THE PROCEEDS FROM ANY SUCH SALE TO BE USED TO PAY ALL PROPER  
9 EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE,  
10 INCLUDING EXPENSES OF SEIZURE, MAINTENANCE OF CUSTODY,  
11 ADVERTISING AND COURT COSTS. THE BALANCE OF THE PROCEEDS  
12 SHALL BE DEALT WITH UNDER SUBSECTIONS (F) AND (G).

13 (F) USE OF CASH OR PROCEEDS OF PROPERTY.--CASH OR PROCEEDS  
14 OF FORFEITED PROPERTY TRANSFERRED TO THE CUSTODY OF THE DISTRICT  
15 ATTORNEY UNDER SUBSECTION (E) SHALL BE PLACED IN THE OPERATING  
16 FUND OF THE COUNTY IN WHICH THE DISTRICT ATTORNEY IS ELECTED.  
17 THE APPROPRIATE COUNTY AUTHORITY SHALL IMMEDIATELY RELEASE FROM  
18 THE OPERATING FUND, WITHOUT RESTRICTION, A LIKE AMOUNT FOR THE  
19 USE OF THE DISTRICT ATTORNEY IN ENFORCING THE CRIMINAL LAWS OF  
20 THE COMMONWEALTH OF PENNSYLVANIA. THE ENTITY HAVING BUDGETARY  
21 CONTROL SHALL NOT ANTICIPATE FUTURE FORFEITURES OR PROCEEDS  
22 THEREFROM IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE  
23 DISTRICT ATTORNEY.

24 (G) DISTRIBUTION OF PROPERTY AMONG LAW ENFORCEMENT  
25 AUTHORITIES.--IF BOTH MUNICIPAL AND STATE LAW ENFORCEMENT  
26 AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE  
27 SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE  
28 PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN THE  
29 DISTRICT ATTORNEY AND THE ATTORNEY GENERAL.

30 (H) AUTHORIZATION TO UTILIZE PROPERTY.--THE DISTRICT

1 ATTORNEY AND THE ATTORNEY GENERAL SHALL UTILIZE FORFEITED  
2 PROPERTY OR PROCEEDS THEREOF FOR THE PURPOSE OF ENFORCING THE  
3 PROVISIONS OF 18 PA.C.S. § 2717, SECTION 6802 (RELATING TO  
4 PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO LIENS AND  
5 RIGHTS OF LIENHOLDERS) AND THIS SECTION. IN APPROPRIATE CASES,  
6 THE DISTRICT ATTORNEY AND THE ATTORNEY GENERAL MAY DESIGNATE  
7 PROCEEDS FROM FORFEITED PROPERTY TO BE UTILIZED FOR  
8 ANTITERRORISM PUBLIC SAFETY PROGRAMS AND FOR RELOCATION AND  
9 PROTECTION OF WITNESSES IN CRIMINAL CASES.

10 (I) ANNUAL AUDIT OF FORFEITED PROPERTY.--IT SHALL BE THE  
11 RESPONSIBILITY OF EVERY COUNTY IN THIS COMMONWEALTH TO PROVIDE,  
12 THROUGH THE CONTROLLER, BOARD OF AUDITORS OR OTHER APPROPRIATE  
13 AUDITOR AND THE DISTRICT ATTORNEY, AN ANNUAL AUDIT OF ALL  
14 FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION. THE  
15 AUDIT SHALL NOT BE MADE PUBLIC BUT SHALL BE SUBMITTED TO THE  
16 OFFICE OF ATTORNEY GENERAL. THE COUNTY SHALL REPORT ALL  
17 FORFEITED PROPERTY AND PROCEEDS OBTAINED UNDER THIS SECTION AND  
18 THE DISPOSITION THEREOF TO THE ATTORNEY GENERAL BY SEPTEMBER 30  
19 OF EACH YEAR.

20 (J) ANNUAL REPORT; CONFIDENTIAL INFORMATION REGARDING  
21 PROPERTY.--THE ATTORNEY GENERAL SHALL ANNUALLY SUBMIT A REPORT  
22 TO THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF THE  
23 SENATE AND THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE  
24 OF THE HOUSE OF REPRESENTATIVES SPECIFYING THE FORFEITED  
25 PROPERTY OR PROCEEDS THEREOF OBTAINED UNDER THIS SECTION. THE  
26 REPORT SHALL GIVE AN ACCOUNTING OF ALL PROCEEDS DERIVED FROM THE  
27 SALE OF FORFEITED PROPERTY AND THE USE MADE OF UNSOLD FORFEITED  
28 PROPERTY. THE ATTORNEY GENERAL SHALL ADOPT PROCEDURES AND  
29 GUIDELINES GOVERNING THE RELEASE OF INFORMATION BY THE DISTRICT  
30 ATTORNEY TO PROTECT THE CONFIDENTIALITY OF FORFEITED PROPERTY OR

1 PROCEEDS USED IN ONGOING ANTITERRORIST ACTIVITIES.

2 (K) PROCEEDS AND APPROPRIATIONS.--THE PROCEEDS OR FUTURE  
3 PROCEEDS FROM PROPERTY FORFEITED UNDER THIS SECTION SHALL BE IN  
4 ADDITION TO ANY APPROPRIATION MADE TO THE OFFICE OF ATTORNEY  
5 GENERAL.

6 § 6802. PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO  
7 LIENS AND RIGHTS OF LIENHOLDERS.

8 (A) GENERAL PROCEDURE.--THE PROCEEDINGS FOR THE FORFEITURE  
9 OR CONDEMNATION OF PROPERTY, THE SALE OF WHICH IS PROVIDED FOR  
10 IN THIS CHAPTER, SHALL BE IN REM, IN WHICH THE COMMONWEALTH  
11 SHALL BE THE PLAINTIFF AND THE PROPERTY THE DEFENDANT. A  
12 PETITION SHALL BE FILED IN THE COURT OF COMMON PLEAS OF THE  
13 JUDICIAL DISTRICT WHERE THE PROPERTY IS LOCATED, VERIFIED BY  
14 OATH OR AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE  
15 FOLLOWING:

16 (1) A DESCRIPTION OF THE PROPERTY SEIZED.

17 (2) A STATEMENT OF THE TIME AND PLACE WHERE SEIZED.

18 (3) THE OWNER, IF KNOWN.

19 (4) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.

20 (5) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO  
21 FORFEITURE PURSUANT TO SECTION 6801(A) (RELATING TO  
22 CONTROLLED SUBSTANCES FORFEITURE) OR 6801.1(A) (RELATING TO  
23 TERRORISM FORFEITURE) AND AN AVERMENT OF MATERIAL FACTS UPON  
24 WHICH THE FORFEITURE ACTION IS BASED.

25 (6) A PRAYER FOR AN ORDER OF FORFEITURE THAT THE  
26 PROPERTY BE ADJUDGED FORFEITED TO THE COMMONWEALTH AND  
27 CONDEMNED AND BE ORDERED SOLD ACCORDING TO LAW, UNLESS CAUSE  
28 BE SHOWN TO THE CONTRARY.

29 (B) NOTICE TO PROPERTY OWNERS.--A COPY OF THE PETITION  
30 REQUIRED UNDER SUBSECTION (A) SHALL BE SERVED PERSONALLY OR BY

1 CERTIFIED MAIL ON THE OWNER OR UPON THE PERSON OR PERSONS IN  
2 POSSESSION AT THE TIME OF THE SEIZURE. THE COPY SHALL HAVE  
3 ENDORSED A NOTICE, AS FOLLOWS:

4 TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:

5 YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION, SETTING  
6 FORTH YOUR TITLE IN, AND RIGHT TO POSSESSION OF, SAID  
7 PROPERTY WITHIN 30 DAYS FROM THE SERVICE HEREOF, AND YOU ARE  
8 ALSO NOTIFIED THAT, IF YOU FAIL TO FILE SAID ANSWER, A DECREE  
9 OF FORFEITURE AND CONDEMNATION WILL BE ENTERED AGAINST SAID  
10 PROPERTY.

11 THE NOTICE SHALL BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY  
12 ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY OR  
13 ASSISTANT DISTRICT ATTORNEY.

14 (C) SUBSTITUTE NOTICE.--IF THE OWNER OF THE PROPERTY IS  
15 UNKNOWN OR THERE WAS NO PERSON IN POSSESSION OF THE PROPERTY  
16 WHEN SEIZED OR IF THE OWNER OR SUCH PERSON OR PERSONS IN  
17 POSSESSION AT THE TIME OF THE SEIZURE CANNOT BE PERSONALLY  
18 SERVED OR LOCATED WITHIN THE JURISDICTION OF THE COURT, NOTICE  
19 OF THE PETITION SHALL BE GIVEN BY THE COMMONWEALTH THROUGH AN  
20 ADVERTISEMENT IN ONLY ONE NEWSPAPER OF GENERAL CIRCULATION  
21 PUBLISHED IN THE COUNTY WHERE THE PROPERTY SHALL HAVE BEEN  
22 SEIZED, ONCE A WEEK FOR TWO SUCCESSIVE WEEKS. NO OTHER  
23 ADVERTISEMENT OF ANY SORT SHALL BE NECESSARY, ANY OTHER LAW TO  
24 THE CONTRARY NOTWITHSTANDING. THE NOTICE SHALL CONTAIN A  
25 STATEMENT OF THE SEIZURE OF THE PROPERTY WITH A DESCRIPTION OF  
26 THE PROPERTY AND THE PLACE AND DATE OF SEIZURE AND SHALL DIRECT  
27 ANY CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR BEFORE A  
28 DATE GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE LESS THAN 30  
29 DAYS FROM THE DATE OF THE FIRST PUBLICATION. IF NO CLAIMS ARE  
30 FILED WITHIN 30 DAYS OF PUBLICATION, THE PROPERTY SHALL

1 SUMMARILY FORFEIT TO THE COMMONWEALTH.

2 (D) PROPERTY OWNERS NOT IN JURISDICTION.--FOR PURPOSES OF  
3 THIS SECTION, THE OWNER OR OTHER SUCH PERSON CANNOT BE FOUND IN  
4 THE JURISDICTION OF THE COURT IF:

5 (1) A COPY OF THE PETITION IS MAILED TO THE LAST KNOWN  
6 ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT DELIVERY;

7 (2) PERSONAL SERVICE IS ATTEMPTED ONCE, BUT CANNOT BE  
8 MADE AT THE LAST KNOWN ADDRESS; AND

9 (3) A COPY OF THE PETITION IS LEFT AT THE LAST KNOWN  
10 ADDRESS.

11 (E) NOTICE AUTOMATICALLY WAIVED.--THE NOTICE PROVISIONS OF  
12 THIS SECTION ARE AUTOMATICALLY WAIVED WHEN THE OWNER, WITHOUT  
13 GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A SUBPOENA  
14 ON THE UNDERLYING CRIMINAL CHARGES. FORTY-FIVE DAYS AFTER SUCH A  
15 FAILURE TO APPEAR, IF GOOD CAUSE HAS NOT BEEN DEMONSTRATED, THE  
16 PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

17 (F) PRESERVATION OF THE PROPERTY SUBJECT FOR FORFEITURE.--  
18 UPON APPLICATION OF THE COMMONWEALTH, THE COURT MAY ENTER A  
19 RESTRAINING ORDER OR INJUNCTION, REQUIRE THE EXECUTION OF A  
20 SATISFACTORY PERFORMANCE BOND OR TAKE ANY OTHER ACTION TO  
21 PRESERVE THE AVAILABILITY OF PROPERTY DESCRIBED IN SECTION  
22 6801(A) OR 6801.1(A) FOR FORFEITURE UNDER THIS SECTION EITHER:

23 (1) UPON THE FILING OF AN INFORMATION OR AN INDICTMENT  
24 CHARGING AN OFFENSE IN THIS COMMONWEALTH FOR WHICH CRIMINAL  
25 FORFEITURE MAY BE ORDERED UNDER THIS CHAPTER AND ALLEGING  
26 THAT THE PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT  
27 WOULD BE SUBJECT TO FORFEITURE; OR

28 (2) PRIOR TO THE FILING OF SUCH AN INDICTMENT OR  
29 INFORMATION, IF, AFTER NOTICE TO PERSONS APPEARING TO HAVE AN  
30 INTEREST IN THE PROPERTY AND AN OPPORTUNITY FOR A HEARING,

1 THE COURT DETERMINES THAT:

2 (I) THERE IS A SUBSTANTIAL PROBABILITY THAT THE  
3 COMMONWEALTH WILL PREVAIL ON THE ISSUE OF FORFEITURE AND  
4 THAT FAILURE TO ENTER THE ORDER WILL RESULT IN THE  
5 PROPERTY BEING DESTROYED, REMOVED FROM THE JURISDICTION  
6 OF THE COURT OR OTHERWISE MADE UNAVAILABLE FOR  
7 FORFEITURE; AND

8 (II) THE NEED TO PRESERVE THE AVAILABILITY OF THE  
9 PROPERTY THROUGH THE ENTRY OF THE REQUESTED ORDER  
10 OUTWEIGHS THE HARDSHIP ON ANY PARTY AGAINST WHOM THE  
11 ORDER IS TO BE ENTERED.

12 HOWEVER, AN ORDER ENTERED PURSUANT TO THIS PARAGRAPH SHALL BE  
13 EFFECTIVE FOR NOT MORE THAN 90 DAYS UNLESS EXTENDED BY THE  
14 COURT FOR GOOD CAUSE SHOWN OR UNLESS AN INDICTMENT OR  
15 INFORMATION DESCRIBED IN PARAGRAPH (1) HAS BEEN FILED.

16 (G) TEMPORARY RESTRAINING ORDER.--A TEMPORARY RESTRAINING  
17 ORDER UNDER SUBSECTION (F) MAY BE ENTERED UPON APPLICATION OF  
18 THE COMMONWEALTH WITHOUT NOTICE OR OPPORTUNITY FOR A HEARING  
19 WHEN AN INFORMATION OR INDICTMENT HAS NOT YET BEEN FILED WITH  
20 RESPECT TO THE PROPERTY, IF THE COMMONWEALTH DEMONSTRATES THAT  
21 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PROPERTY WITH  
22 RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT TO  
23 FORFEITURE UNDER THIS CHAPTER AND THAT PROVISION OF NOTICE WILL  
24 JEOPARDIZE THE AVAILABILITY OF THE PROPERTY FOR FORFEITURE. SUCH  
25 A TEMPORARY ORDER SHALL EXPIRE NOT MORE THAN TEN DAYS AFTER THE  
26 DATE ON WHICH IT IS ENTERED, UNLESS EXTENDED FOR GOOD CAUSE  
27 SHOWN OR UNLESS THE PARTY AGAINST WHOM IT IS ENTERED CONSENTS TO  
28 AN EXTENSION FOR A LONGER PERIOD. A HEARING REQUESTED CONCERNING  
29 AN ORDER ENTERED UNDER THIS SUBSECTION SHALL BE HELD AT THE  
30 EARLIEST POSSIBLE TIME AND PRIOR TO THE EXPIRATION OF THE

1 TEMPORARY ORDER.

2 (H) HEARING REGARDING PROPERTY; RULES OF EVIDENCE.--THE  
3 COURT MAY RECEIVE AND CONSIDER, AT A HEARING HELD PURSUANT TO  
4 SUBSECTION (F) OR (G), EVIDENCE AND INFORMATION THAT WOULD BE  
5 INADMISSIBLE UNDER THE RULES OF EVIDENCE.

6 (I) HEARING TIME SET.--UPON THE FILING OF A CLAIM FOR THE  
7 PROPERTY SETTING FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE  
8 DEEMED AT ISSUE AND A TIME SHALL BE FIXED FOR THE HEARING.

9 (J) OWNER'S BURDEN OF PROOF.--AT THE TIME OF THE HEARING, IF  
10 THE COMMONWEALTH PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION  
11 WAS UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO  
12 FORFEITURE UNDER SECTION 6801(A) OR 6801.1(A), THE BURDEN SHALL  
13 BE UPON THE CLAIMANT TO SHOW:

14 (1) THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY OR  
15 THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL  
16 SALE THEREON.

17 (2) THAT THE CLAIMANT LAWFULLY ACQUIRED THE PROPERTY.

18 (3) THAT IT WAS NOT UNLAWFULLY USED OR POSSESSED BY HIM.  
19 IN THE EVENT THAT IT SHALL APPEAR THAT THE PROPERTY WAS  
20 UNLAWFULLY USED OR POSSESSED BY A PERSON OTHER THAN THE  
21 CLAIMANT, THEN THE CLAIMANT SHALL SHOW THAT THE UNLAWFUL USE  
22 OR POSSESSION WAS WITHOUT HIS KNOWLEDGE OR CONSENT. SUCH  
23 ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE  
24 CIRCUMSTANCES PRESENTED.

25 (K) COURT-ORDERED RELEASE OF PROPERTY.--IF A PERSON CLAIMING  
26 THE OWNERSHIP OF OR RIGHT OF POSSESSION TO OR CLAIMING TO BE THE  
27 HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL SALE  
28 UPON THE PROPERTY, THE DISPOSITION OF WHICH IS PROVIDED FOR IN  
29 THIS SECTION, PRIOR TO THE SALE PRESENTS A PETITION TO THE COURT  
30 ALLEGING OVER THE PROPERTY LAWFUL OWNERSHIP, RIGHT OF

1 POSSESSION, A LIEN OR RESERVATION OF TITLE AND IF, UPON PUBLIC  
2 HEARING, DUE NOTICE OF WHICH HAVING BEEN GIVEN TO THE ATTORNEY  
3 GENERAL OR THE DISTRICT ATTORNEY, THE CLAIMANT SHALL PROVE BY  
4 COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT THAT THE  
5 PROPERTY WAS LAWFULLY ACQUIRED, POSSESSED AND USED BY HIM OR, IT  
6 APPEARING THAT THE PROPERTY WAS UNLAWFULLY USED BY A PERSON  
7 OTHER THAN THE CLAIMANT, THAT THE UNLAWFUL USE WAS WITHOUT THE  
8 CLAIMANT'S KNOWLEDGE OR CONSENT, THEN THE COURT MAY ORDER THE  
9 PROPERTY RETURNED OR DELIVERED TO THE CLAIMANT. SUCH ABSENCE OF  
10 KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES  
11 PRESENTED. OTHERWISE, IT SHALL BE RETAINED FOR OFFICIAL USE OR  
12 SOLD IN ACCORDANCE WITH SECTION 6801(E) OR 6801.1(F).]

13 SECTION 9. SECTIONS 4909(C), 9405(A), (B), (C)(1), (D), (I)  
14 AND (J) AND 9406 OF TITLE 75 ARE AMENDED TO READ:

15 § 4909. TRANSPORTING FOODSTUFFS IN VEHICLES USED TO TRANSPORT  
16 WASTE.

17 \* \* \*

18 (C) VEHICLE FORFEITURE.--ANY VEHICLE OR CONVEYANCE USED IN  
19 THE COMMISSION OF AN OFFENSE UNDER THIS SECTION SHALL BE DEEMED  
20 CONTRABAND AND FORFEITED [TO THE DEPARTMENT OF ENVIRONMENTAL  
21 RESOURCES. THE PROVISIONS OF LAW RELATING TO THE SEIZURE,  
22 SUMMARY AND JUDICIAL FORFEITURE, AND CONDEMNATION OF  
23 INTOXICATING LIQUOR SHALL APPLY TO SEIZURES AND FORFEITURES  
24 UNDER THIS SECTION. PROCEEDS FROM THE SALE OF FORFEITED VEHICLES  
25 OR CONVEYANCES SHALL BE DEPOSITED IN THE SOLID WASTE ABATEMENT  
26 FUND] IN ACCORDANCE WITH 42 PA.C.S. CH. 58 (RELATING TO  
27 FORFEITURE OF ASSETS).

28 \* \* \*

29 § 9405. FORFEITURES; PROCESS AND PROCEDURES.

30 (A) SUBJECTS OF FORFEITURE.--THE FOLLOWING ARE SUBJECT TO

1 FORFEITURE TO THE COMMONWEALTH AND NO PROPERTY RIGHT SHALL EXIST  
2 IN THEM:

3 (1) ANY LIQUID FUELS OR FUELS PRODUCED IN OR IMPORTED  
4 INTO THIS COMMONWEALTH BY ANY DISTRIBUTOR WHO DOES NOT  
5 POSSESS A VALID LIQUID FUELS TAX PERMIT OR FUELS PERMIT AS  
6 REQUIRED BY SECTION 9003 (RELATING TO LIQUID FUELS AND FUELS  
7 PERMITS; BOND OR DEPOSIT OF SECURITIES), EXCEPT LIQUID FUELS  
8 OR FUELS IMPORTED IN BARRELS, DRUMS OR SIMILAR CONTAINERS  
9 WITH A CAPACITY OF NOT MORE THAN 55 GALLONS IN EACH BARREL,  
10 DRUM OR CONTAINER.

11 (2) ALL CONVEYANCES, INCLUDING VEHICLES OR VESSELS, USED  
12 TO TRANSPORT LIQUID FUELS OR FUELS AS DESCRIBED IN PARAGRAPH

13 (1) EXCEPT:

14 (I) NO CONVEYANCE USED BY ANY PERSON AS A COMMON  
15 CARRIER IN THE TRANSACTION OF BUSINESS AS A COMMON  
16 CARRIER IS SUBJECT TO FORFEITURE UNDER THIS SECTION  
17 UNLESS IT APPEARS THAT THE OWNER OR OTHER PERSON IN  
18 CHARGE OF THE CONVEYANCE IS A CONSENTING PARTY OR PRIVY  
19 TO A VIOLATION OF CHAPTER 90 (RELATING TO LIQUID FUELS  
20 AND FUELS TAX); AND

21 (II) NO BONA FIDE SECURITY INTEREST RETAINED OR  
22 ACQUIRED UNDER TITLE 13 (RELATING TO COMMERCIAL CODE) BY  
23 ANY MERCHANT DEALING IN NEW OR USED VEHICLES OR VESSELS,  
24 OR RETAINED OR ACQUIRED BY ANY LICENSED OR REGULATED  
25 FINANCE COMPANY, BANK, LENDING INSTITUTION OR BY ANY  
26 OTHER BUSINESS REGULARLY ENGAGED IN THE FINANCING OF OR  
27 LENDING ON THE SECURITY OF SUCH VEHICLES OR VESSELS,  
28 SHALL BE SUBJECT TO FORFEITURE OR IMPAIRMENT.] FORFEITURE  
29 OF SUCH CONVEYANCES SHALL BE CONDUCTED IN ACCORDANCE WITH  
30 42 PA.C.S. CH. 58 (RELATING TO FORFEITURE OF ASSETS).

1 (B) METHOD OF SEIZURE.--[PROPERTY] LIQUID FUELS OR FUELS  
2 SUBJECT TO FORFEITURE UNDER THIS SECTION MAY BE SEIZED BY THE  
3 DEPARTMENT OF REVENUE UPON PROCESS ISSUED BY ANY COURT OF COMMON  
4 PLEAS HAVING JURISDICTION OVER THE PROPERTY. SEIZURE WITHOUT  
5 PROCESS MAY BE MADE IF THE SEIZURE IS INCIDENT TO AN INSPECTION  
6 OR ARREST FOR A VIOLATION OF THIS CHAPTER OR CHAPTER 90.

7 (C) LIMIT ON RETURN OF [PROPERTY] LIQUID FUELS OR FUELS.--

8 (1) NO [PROPERTY] LIQUID FUELS OR FUELS SEIZED IN  
9 ACCORDANCE WITH THIS SECTION, WHEN IN THE CUSTODY OF THE  
10 DEPARTMENT OF REVENUE, SHALL BE SEIZED OR TAKEN THEREFROM BY  
11 ANY WRIT OF REPLEVIN OR OTHER JUDICIAL PROCESS UNLESS A  
12 PETITION FOR FORFEITURE IS NOT TIMELY FILED.

13 \* \* \*

14 (D) IN REM PROCEEDINGS.--THE PROCEEDINGS FOR THE FORFEITURE  
15 OF ANY LIQUID FUELS OR FUELS [OR CONVEYANCES] SEIZED UNDER THIS  
16 SECTION SHALL BE IN REM. THE COMMONWEALTH SHALL BE THE PLAINTIFF  
17 AND THE PROPERTY SHALL BE THE DEFENDANT. A PETITION SHALL BE  
18 FILED, WITHIN FIVE DAYS AFTER SEIZURE, IN THE COURT OF COMMON  
19 PLEAS OF THE COUNTY IN WHICH THE PROPERTY WAS SEIZED BY REVENUE  
20 AGENTS OF THE DEPARTMENT OF REVENUE, VERIFIED BY OATH OR  
21 AFFIRMATION OF ANY REVENUE AGENT. IN THE EVENT THAT THE PETITION  
22 IS NOT FILED WITHIN THE TIME PRESCRIBED HEREIN, THE SEIZED  
23 PROPERTY SHALL BE IMMEDIATELY RETURNED TO THE PERSON FROM WHOM  
24 SEIZED OR THE OWNER THEREOF.

25 \* \* \*

26 (I) STANDARD OF PROOF.--THE CLAIMANT SHALL HAVE THE BURDEN  
27 OF PROVING THAT HE IS NOT SUBJECT TO THE PROVISIONS OF THIS  
28 SECTION, BUT THE BURDEN OF PROOF SHALL BE UPON THE COMMONWEALTH  
29 TO PROVE ALL OTHER FACTS NECESSARY FOR THE FORFEITURE OF THE  
30 PROPERTY. IN THE EVENT THAT THE COMMONWEALTH HAS NOT MET ITS

1 BURDEN BY A PREPONDERANCE OF THE EVIDENCE OR THE CLAIMANT HAS  
2 PROVED THAT HE IS NOT SUBJECT TO THE PROVISIONS OF THIS SECTION,  
3 THE COURT SHALL ORDER THE PROPERTY RETURNED TO THE CLAIMANT;  
4 OTHERWISE, THE COURT SHALL ORDER THE PROPERTY FORFEITED TO THE  
5 COMMONWEALTH. [IN THE CASE OF A MOTOR VEHICLE, VESSEL OR  
6 CONVEYANCE, SHOULD THE CLAIMANT PROVE TO THE SATISFACTION OF THE  
7 COURT THAT HE IS THE REGISTERED OWNER OF THE MOTOR VEHICLE,  
8 VESSEL OR CONVEYANCE AND THAT HE DID NOT KNOW OR HAVE REASON TO  
9 KNOW THAT IT WAS BEING USED TO TRANSPORT LIQUID FUELS OR FUELS  
10 IN VIOLATION OF THE PROVISIONS OF SECTION 9404 (RELATING TO  
11 VIOLATIONS AND PENALTIES) OR 9019 (RELATING TO DIESEL FUEL  
12 IMPORTERS AND TRANSPORTERS; PROHIBITING USE OF DYED DIESEL FUEL  
13 ON HIGHWAYS; VIOLATIONS AND PENALTIES), THE COURT IN ITS  
14 DISCRETION MAY ORDER THE MOTOR VEHICLE, VESSEL OR CONVEYANCE  
15 RETURNED TO THE CLAIMANT.

16 (J) ENCUMBERED MOTOR VEHICLE.--IN THE CASE OF A MOTOR  
17 VEHICLE, SHOULD THE CLAIMANT PROVE THAT HE HOLDS A VALID  
18 ENCUMBRANCE UPON SUCH MOTOR VEHICLE, NOTICE OF WHICH ENCUMBRANCE  
19 HAS BEEN DULY NOTED ON THE CERTIFICATE OF TITLE TO THE MOTOR  
20 VEHICLE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 11  
21 (RELATING TO CERTIFICATE OF TITLE AND SECURITY INTERESTS), THE  
22 FORFEITURE SHALL BE SUBJECT TO SUCH ENCUMBRANCE AS OF THE DATE  
23 OF THE SEIZURE LESS PREPAID OR UNEARNED INTEREST. BEFORE THE  
24 MOTOR VEHICLE MAY BE SOLD, EXCHANGED OR OTHERWISE TRANSFERRED OR  
25 RETAINED FOR USE BY THE COMMONWEALTH, THE OUTSTANDING AMOUNT OF  
26 THE ENCUMBRANCE SHALL BE PAID TO THE CLAIMANT OR POSSESSION OF  
27 THE MOTOR VEHICLE SHALL BE TURNED OVER TO THE CLAIMANT WHO SHALL  
28 EXPOSE THE SAME TO PUBLIC SALE AND SHALL PAY OVER TO THE  
29 COMMONWEALTH ANY AMOUNT REALIZED IN EXCESS OF THE OUTSTANDING  
30 AMOUNT OF SUCH ENCUMBRANCE LESS THE REASONABLE COSTS INCURRED BY

1 CLAIMANT IN CONDUCTING SUCH SALE.]

2 § 9406. DISPOSITION OF FINES AND FORFEITURES.

3 ALL FINES IMPOSED UNDER THIS CHAPTER AND THE NET PROCEEDS  
4 RECEIVED FROM THE SALE OF FORFEITED [PROPERTY] LIQUID FUELS OR  
5 FUELS SHALL BE PAYABLE TO THE COMMONWEALTH AND CREDITED TO THE  
6 MOTOR LICENSE FUND.

7 SECTION 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO  
8 THE CONTRARY, THE FOLLOWING FORFEITURES SHALL BE CONDUCTED IN  
9 ACCORDANCE WITH 42 PA.C.S. CH. 58:

10 (1) THE FORFEITURE OF PROPERTY SPECIFIED IN SECTION 1 OF  
11 THE ACT OF JULY 3, 1941 (P.L.263, NO.121), ENTITLED "AN ACT  
12 PROVIDING FOR THE FORFEITURE AND CONDEMNATION OF VEHICLES  
13 USED TO STORE, POSSESS OR TRANSPORT NARCOTICS OR DRUGS, THE  
14 POSSESSION OR TRANSPORTATION OF WHICH IS IN VIOLATION OF  
15 LAW."

16 (2) THE SEIZURE OF PROPERTY SPECIFIED IN SECTIONS 211(A)  
17 (3) AND 601 OF THE ACT OF APRIL 12, 1951 (P.L.90, NO.21),  
18 KNOWN AS THE LIQUOR CODE.

19 (3) THE FORFEITURE OF PROPERTY SPECIFIED IN SECTION 1285  
20 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX  
21 REFORM CODE OF 1971.

22 (4) THE FORFEITURE OF PROPERTY SPECIFIED IN SECTION 614  
23 OF THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE  
24 SOLID WASTE MANAGEMENT ACT.

25 (5) THE FORFEITURE OF PROPERTY SPECIFIED IN SECTION 1715  
26 OF THE ACT OF JULY 28, 1988 (P.L.556, NO.101), KNOWN AS THE  
27 MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT.

28 (6) THE FORFEITURE OF PROPERTY SPECIFIED IN SECTION 1 OF  
29 THE ACT OF DECEMBER 1, 2004 (P.L.1766, NO.227), ENTITLED "AN  
30 ACT AUTHORIZING CITIES OF THE FIRST CLASS THAT HAVE ADOPTED A

1 HOME RULE CHARTER TO ENFORCE ORDINANCES, RULES AND  
2 REGULATIONS PROHIBITING DUMPING OR DISPOSAL OF WASTE, TRASH  
3 OR DEBRIS."

4 SECTION 11. REPEALS ARE AS FOLLOWS:

5 (1) THE GENERAL ASSEMBLY FINDS THAT THE REPEALS UNDER  
6 PARAGRAPHS (2) AND (3) ARE NECESSARY TO EFFECTUATE THE  
7 ADDITION OF 42 PA.C.S. CH. 58.

8 (2) SECTIONS 602 AND 603(A) AND (B) OF THE ACT OF APRIL  
9 12, 1951 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE, ARE  
10 REPEALED TO THE EXTENT OF ANY INCONSISTENCY WITH THIS ACT.

11 (3) THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED  
12 ABSOLUTELY:

13 (I) SECTIONS 2, 3, 4 AND 5 OF THE ACT OF JULY 3,  
14 1941 (P.L.263, NO.121), ENTITLED "AN ACT PROVIDING FOR  
15 THE FORFEITURE AND CONDEMNATION OF VEHICLES USED TO  
16 STORE, POSSESS OR TRANSPORT NARCOTICS OR DRUGS, THE  
17 POSSESSION OR TRANSPORTATION OF WHICH IS IN VIOLATION OF  
18 LAW."

19 (II) SECTION 603(C) OF THE ACT OF APRIL 12, 1951  
20 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE.

21 (III) SECTION 1285(F), (G), (H), (I), (J), (K), (L),  
22 (M) AND (N) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),  
23 KNOWN AS THE TAX REFORM CODE OF 1971.

24 SECTION 12. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.