

CHAPTER 117

MILITARY AND VETERANS

HOUSE BILL 07-1275

BY REPRESENTATIVE(S) Rice, King, Casso, Gallegos, Gardner B., Kerr J., Labuda, Lambert, Mitchell V., Romanoff, Rose, and Todd;
also SENATOR(S) Penry, Morse, and Schultheis.

AN ACT

CONCERNING AUTHORIZATION FOR THE COLORADO NATIONAL GUARD UNDER CERTAIN CIRCUMSTANCES TO RECEIVE PROPERTY FORFEITED TO THE FEDERAL GOVERNMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The Colorado National Guard Joint Counterdrug Task Force provides drug interdiction and counterdrug support to civil authorities in accordance with 32 U.S.C. sec. 112 and part 13 of article 3 of title 28, Colorado Revised Statutes. This support is provided pursuant to the Governor's Counterdrug Support Plan, which is updated annually and signed by the Governor, the Attorney General, and the Adjutant General and approved by the United States Secretary of Defense.

(b) One of the ways that the Colorado National Guard Joint Counterdrug Task Force provides support to civil authorities includes counterdrug support to local, state, and federal law enforcement agencies;

(c) Counterdrug support to law enforcement agencies is provided in several categories intended to assist law enforcement with tasks that support drug investigations and allow law enforcement officers to focus more of their time on traditional law enforcement activities in the field. These categories include activities such as aerial reconnaissance and observation, linguistic support, communications support, transportation support, and eradication of marijuana fields.

(d) Law enforcement agencies supported by the Colorado National Guard Joint Counterdrug Task Force are eligible to share in the proceeds generated by the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

federal asset forfeiture program. However, the Colorado National Guard is not designated as a law enforcement agency under state law, therefore it is not eligible to participate in the sharing of federally forfeited property.

(2) Therefore, the general assembly finds and declares that it is appropriate to designate the Colorado National Guard as a law enforcement agency for the limited purpose of sharing in the federal asset forfeiture program when operating under the authority of the Governor's Counterdrug Support Plan in accordance with state and federal law.

SECTION 2. 16-13-601, Colorado Revised Statutes, is amended to read:

16-13-601. Receipt of federally forfeited property. Any agency charged with the enforcement of the laws of this state, INCLUDING THE COLORADO NATIONAL GUARD WHEN PARTICIPATING IN OPERATIONS PURSUANT TO THE DRUG INTERDICTION AND ENFORCEMENT PLAN REQUIRED BY PART 13 OF ARTICLE 3 OF TITLE 28, C.R.S., is authorized to accept, receive, dispose of, and expend the property or proceeds from any property forfeited to the federal government and allocated to such agency by the United States attorney general pursuant to 21 U.S.C. 881 (e). Such revenues shall be in addition to the moneys appropriated to such law enforcement agency by the general assembly or any unit of local government. Said property or proceeds may be credited to any lawfully created fund designated to receive proceeds of forfeitures. Any proceeds received pursuant to this section are exempt from the distribution requirements of section 16-13-311 (3) (a).

SECTION 3. 28-3-1303, Colorado Revised Statutes, is amended to read:

28-3-1303. Drug interdiction and enforcement plan - requirements. (1) The drug interdiction and enforcement plan required by this part 13 shall be in compliance with the provisions set forth in ~~P.L.~~ PUB.L. 100-456, section 1105, and shall specifically request the secretary of defense to provide sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard when utilized in conjunction with the plan. The plan shall specify that such funds are to be used solely for the purpose of drug interdiction and enforcement operations and for the operation and maintenance of the equipment and facilities of the National Guard when used in conjunction with such plan.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN PARTICIPATING IN OPERATIONS PURSUANT TO THE DRUG INTERDICTION AND ENFORCEMENT PLAN REQUIRED BY THIS PART 13, THE NATIONAL GUARD SHALL BE CONSIDERED A LAW ENFORCEMENT AGENCY OF THE STATE FOR PURPOSES OF ACCEPTING, RECEIVING, DISPOSING OF, AND EXPENDING THE PROPERTY AND PROCEEDS FROM ANY PROPERTY FORFEITED TO THE FEDERAL GOVERNMENT AND ALLOCATED TO THE NATIONAL GUARD PURSUANT TO SECTION 16-13-601, C.R.S.

SECTION 4. Part 13 of article 3 of title 28, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

28-3-1305. Department of military and veterans affairs counterdrug program federal forfeiture fund - creation. ANY MONEYS ACCEPTED BY THE

ADJUTANT GENERAL PURSUANT TO SECTION 16-13-601, C.R.S., SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS COUNTERDRUG PROGRAM FEDERAL FORFEITURE FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY AND REFERRED TO IN THIS SECTION AS THE "FUND". ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND. MONEYS IN THE FUND SHALL BE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR USE BY THE ADJUTANT GENERAL IN COMPLIANCE WITH STATE AND FEDERAL LAW.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 9, 2007