

**First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 25-0067.01 Jerry Barry x4341

**HOUSE BILL 25-1067**

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**HOUSE SPONSORSHIP**

**DeGraaf,**

**SENATE SPONSORSHIP**

**Baisley,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE "CRIMINAL ASSET FORFEITURE ACT".**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill replaces existing statutes on public abatement and instead enacts provisions concerning criminal forfeiture. The bill:

- Limits forfeiture so it can occur only when a defendant is convicted of a crime of unlawful distribution, manufacturing, dispensing, or selling a controlled substance;
- Specifies that a forfeiture proceeding is not a separate civil proceeding but part of a defendant's criminal proceeding;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.



1           (4) "CONVEYANCE" MEANS A DEVICE USED FOR TRANSPORTATION,  
2 INCLUDING A MOTOR VEHICLE, TRAILER, SNOWMOBILE, AIRPLANE, VESSEL,  
3 OR EQUIPMENT ATTACHED TO ONE OF THESE DEVICES. "CONVEYANCE"  
4 DOES NOT INCLUDE STOLEN PROPERTY.

5           (5) "INNOCENT OWNER" MEANS AN OWNER, CO-OWNER,  
6 DEFENDANT'S HEIR, OR OTHER PERSON WHO REGULARLY USES THE  
7 PROPERTY SUBJECT TO FORFEITURE, BUT WHO DOES NOT HAVE ACTUAL  
8 KNOWLEDGE OF THE USE OF THE PROPERTY IN THE CRIME THAT  
9 AUTHORIZES THE FORFEITURE OF THE PROPERTY. "INNOCENT OWNER"  
10 DOES NOT INCLUDE A DEFENDANT OR A SECURED INTEREST HOLDER.

11           (6) "INSTRUMENTALITY" MEANS PROPERTY OTHERWISE LAWFUL TO  
12 POSSESS THAT IS USED IN A CRIME THAT AUTHORIZES THE FORFEITURE OF  
13 THE PROPERTY. "INSTRUMENTALITY" INCLUDES LAND, BUILDINGS,  
14 CONTAINERS, CONVEYANCES, EQUIPMENT, MATERIALS, PRODUCTS, TOOLS,  
15 COMPUTERS, COMPUTER SOFTWARE, TELECOMMUNICATIONS DEVICES,  
16 FIREARMS, AMMUNITION, AND AMMUNITION- AND FIREARM-ACCESSORIES.

17           (7) "LAW ENFORCEMENT AGENCY" MEANS A NONFEDERAL POLICE  
18 FORCE, OR OTHER LOCAL, COUNTY, CITY AND COUNTY, OR STATE AGENCY,  
19 THAT HAS THE AUTHORITY PURSUANT TO COLORADO LAW TO ENGAGE IN  
20 SEIZURE AND FORFEITURE.

21           (8) "PERSONAL PROPERTY" MEANS A MOVABLE OR INTANGIBLE  
22 ASSET OF VALUE THAT IS SUBJECT TO OWNERSHIP. "PERSONAL PROPERTY"  
23 DOES NOT INCLUDE REAL PROPERTY OR PROCEEDS.

24           (9) "PROCEEDS" MEANS UNITED STATES CURRENCY, CURRENCY OF  
25 ANOTHER NATION, DIGITAL AND CRYPTOCURRENCY, SECURITIES,  
26 NEGOTIABLE INSTRUMENTS, OR OTHER MEANS OF EXCHANGE OBTAINED  
27 FROM THE SALE OF PROPERTY OR CONTRABAND.

1 (10) "PROSECUTING AUTHORITY" MEANS A MUNICIPAL ATTORNEY,  
2 SOLICITOR, DISTRICT ATTORNEY, ATTORNEY GENERAL, OR OTHER  
3 GOVERNMENT OFFICIAL LEGALLY AUTHORIZED TO PROSECUTE CRIME.

4 (11) "PUBLIC DEFENDER" MEANS AN ATTORNEY EMPLOYED BY OR  
5 CONTRACTED WITH THE OFFICE OF THE STATE PUBLIC DEFENDER CREATED  
6 PURSUANT TO ARTICLE 1 OF TITLE 21, THE OFFICE OF ALTERNATE DEFENSE  
7 COUNSEL CREATED PURSUANT TO ARTICLE 2 OF TITLE 21, OR A MUNICIPAL  
8 PUBLIC DEFENDER.

9 (12) "REAL PROPERTY" MEANS IMMOVABLE PROPERTY AND REAL  
10 ESTATE AND REALTY, INCLUDING LAND AND ANYTHING GROWING ON,  
11 ATTACHED TO, OR ERECTED ON THE LAND, SUCH AS A BUILDING.

12 (13) "SECURED INTEREST HOLDER" MEANS A PERSON WHO IS A  
13 SECURED CREDITOR, MORTGAGEE, LIENHOLDER, OR OTHER PERSON WHO  
14 HAS A VALID CLAIM, SECURITY INTEREST, MORTGAGE, LIEN, LEASEHOLD,  
15 OR OTHER INTEREST IN THE PROPERTY SUBJECT TO FORFEITURE. "SECURED  
16 INTEREST HOLDER" DOES NOT INCLUDE A DEFENDANT OR AN INNOCENT  
17 OWNER.

18 **16-13-1103. Purpose.** (1) THE PURPOSE OF THIS PART 11 IS TO:

- 19 (a) DETER CRIME BY REDUCING ITS ECONOMIC INCENTIVES;
- 20 (b) CONFISCATE PROPERTY USED IN VIOLATION OF LAW;
- 21 (c) DISGORGE THE FRUIT OF ILLEGAL CONDUCT; AND
- 22 (d) PROTECT THE DUE PROCESS RIGHTS OF PROPERTY OWNERS.

23 **16-13-1104. Jurisdiction.** (1) THERE IS NO CIVIL FORFEITURE  
24 UNDER THIS PART 11.

25 (2) THE COURT THAT HAS JURISDICTION IN THE RELATED CRIMINAL  
26 CASE HAS JURISDICTION IN THE FORFEITURE PROCEEDING DESCRIBED  
27 PURSUANT TO THIS PART 11.

1           (3) A FORFEITURE PROCEEDING IS PART OF THE PROSECUTION OF  
2 THE RELATED CRIME, AND THE FORFEITURE PROCEEDING MUST FOLLOW A  
3 FINDING OF THE DEFENDANT'S GUILT OR BE CONDUCTED AT THE COURT'S  
4 DISCRETION. THE COURT SHALL CONDUCT THE FORFEITURE PROCEEDING  
5 WITHOUT A JURY.

6           (4) ALL FORFEITURE-RELATED MOTIONS MUST BE FILED IN THE  
7 CRIMINAL COURT WITH JURISDICTION OVER THE CRIMINAL CASE AT THE  
8 TIME OF FILING.

9           (5) IF THE INITIAL COURT BINDS OVER OR TRANSFERS THE CRIMINAL  
10 CASE TO ANOTHER COURT, THE INITIAL COURT SHALL TRANSFER THE  
11 FORFEITURE-RELATED MOTIONS ALONG WITH THE CRIMINAL CASE TO THE  
12 OTHER COURT. AT ITS DISCRETION, THE INITIAL COURT MAY POSTPONE A  
13 FORFEITURE-RELATED HEARING AND BIND OVER A FORFEITURE-RELATED  
14 MOTION TO ANOTHER COURT IN THE INTERESTS OF JUSTICE AND EFFICIENT  
15 USE OF GOVERNMENTAL RESOURCES.

16           **16-13-1105. Seizure of proceeds without process.**

17           (1) PROCEEDS MAY BE SEIZED WITHOUT A COURT ORDER IF THE STATE HAS  
18 PROBABLE CAUSE TO BELIEVE THE PROCEEDS THAT ARE FORFEITABLE  
19 PURSUANT TO THIS PART 11 WERE OR MAY BE USED IN THE PURCHASE OF  
20 A CONTROLLED OR OTHER ILLEGAL SUBSTANCE OR DERIVED DIRECTLY  
21 FROM ANOTHER ILLEGAL ACTIVITY, AND:

- 22           (a) THE SEIZURE IS INCIDENT TO A LAWFUL ARREST;
- 23           (b) THE DELAY CAUSED BY THE NECESSITY OF OBTAINING A COURT  
24 ORDER AUTHORIZING SEIZURE WOULD REASONABLY RESULT IN THE  
25 REMOVAL OR DESTRUCTION OF THE PROCEEDS THAT ARE FORFEITABLE  
26 PURSUANT TO THIS PART 11;
- 27           (c) THE PERSONAL PROPERTY IS THE SUBJECT OF A PRIOR AND

1 VALID JUDGMENT OF FORFEITURE IN FAVOR OF THE STATE; OR

2 (d) THE PROCEEDS ARE SEIZED OR IMPOUNDED AS EVIDENCE IN A  
3 CRIMINAL PROSECUTION OR INVESTIGATION INDEPENDENT OF FORFEITURE.

4 **16-13-1106. Seizure of personal property without process.**

5 (1) PERSONAL PROPERTY SUBJECT TO FORFEITURE MAY BE SEIZED  
6 WITHOUT A COURT ORDER IF:

7 (a) THE SEIZURE IS INCIDENT TO A LAWFUL ARREST;

8 (b) THE STATE HAS PROBABLE CAUSE TO BELIEVE THE PROPERTY  
9 WAS USED OR WAS ATTEMPTED TO BE USED IN A MANNER THAT MAKES THE  
10 PROPERTY FORFEITABLE PURSUANT TO THIS PART 11;

11 (c) THE STATE HAS PROBABLE CAUSE TO BELIEVE THE DELAY  
12 CAUSED BY THE NECESSITY OF OBTAINING A COURT ORDER WOULD  
13 REASONABLY RESULT IN THE REMOVAL OR DESTRUCTION OF THE  
14 PROPERTY THAT IS FORFEITABLE PURSUANT TO THIS PART 11;

15 (d) THE PROPERTY IS THE SUBJECT OF A PRIOR AND VALID  
16 JUDGMENT OF FORFEITURE IN FAVOR OF THE STATE; OR

17 (e) THE PROPERTY IS SEIZED OR IMPOUNDED AS EVIDENCE IN A  
18 CRIMINAL PROSECUTION OR INVESTIGATION INDEPENDENT OF FORFEITURE.

19 **16-13-1107. Seizure of personal property with process.** AT THE  
20 REQUEST OF THE STATE, THE COURT MAY ISSUE AN EX PARTE ORDER TO  
21 SEARCH, ATTACH, SEIZE, OR SECURE PROCEEDS AND PERSONAL PROPERTY  
22 FOR WHICH FORFEITURE IS SOUGHT AND TO PROVIDE FOR THEIR CUSTODY.  
23 APPLICATION, ISSUANCE, EXECUTION, AND RETURN ARE SUBJECT TO THE  
24 LAWS OF THIS STATE AND COURT RULES.

25 **16-13-1108. Seizure or restraint of real property with process.**

26 (1) REAL PROPERTY MUST NOT BE SEIZED OR RESTRAINED WITHOUT A  
27 COURT ORDER.

1           (2) A COURT MUST NOT ISSUE AN ORDER TO SEIZE OR RESTRAIN  
2 REAL PROPERTY UNLESS THE DEFENDANT AND ANY OTHER PERSON WITH  
3 A KNOWN INTEREST IN THE REAL PROPERTY RECEIVE PROPER NOTICE AND  
4 THE DEFENDANT AND ANOTHER PERSON WITH A KNOWN INTEREST IN THE  
5 PROPERTY ARE GIVEN AN OPPORTUNITY FOR A CONTESTED HEARING TO  
6 DETERMINE THE EXISTENCE OF PROBABLE CAUSE FOR THE SEIZURE.

7           (3) NOTICE MUST BE MADE BY PUBLICATION IF NOTICE BY  
8 PERSONAL SERVICE IS NOT SUCCESSFUL AFTER REASONABLE ATTEMPTS.

9           (4) THIS SECTION DOES NOT PROHIBIT A PROSECUTING AUTHORITY  
10 FROM SEEKING A LIS PENDENS OR RESTRAINING ORDER TO HINDER THE  
11 SALE OR DESTRUCTION OF REAL PROPERTY. HOWEVER, IF THE  
12 PROSECUTING AUTHORITY OBTAINS A LIS PENDENS OR RESTRAINING  
13 ORDER, THE PROSECUTING AUTHORITY SHALL NOTIFY THE DEFENDANT  
14 AND ANY OTHER PERSON WITH A KNOWN INTEREST IN THE PROPERTY  
15 WITHIN THIRTY DAYS AFTER FILING THE LIS PENDENS.

16           (5) APPLICATION, FILING, ISSUANCE, EXECUTION, AND RETURN OF  
17 A COURT ORDER ARE SUBJECT TO THE LAWS OF THIS STATE AND COURT  
18 RULES.

19           **16-13-1109. Stolen property and contraband.** (1) A PROPERTY  
20 RIGHT DOES NOT EXIST IN STOLEN PROPERTY OR CONTRABAND. STOLEN  
21 PROPERTY AND CONTRABAND ARE SUBJECT TO SEIZURE.

22           (2) STOLEN PROPERTY MUST BE RETURNED, AND CONTRABAND  
23 MUST BE DISPOSED OF ACCORDING TO THE LAWS OF THIS STATE.

24           (3) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, THE  
25 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RELEASE OF STOLEN  
26 PROPERTY AND THE DISPOSAL OF CONTRABAND, INCLUDING THE USE OF  
27 PHOTOGRAPHIC EVIDENCE, TO PRESERVE THE PROPERTY FOR LATER USE AS

1 EVIDENCE IN PROCEEDINGS HELD PURSUANT TO THIS PART 11 OR THE  
2 RELATED CRIMINAL PROSECUTION.

3 **16-13-1110. Storing seized property and depositing seized**  
4 **proceeds.** (1) THE SEIZING AGENCY IS RESPONSIBLE FOR PROVIDING  
5 ADEQUATE STORAGE, SECURITY, PRESERVATION, AND MAINTENANCE FOR  
6 SEIZED PROPERTY UNLESS ANOTHER AGENCY AGREES TO ACCEPT THE  
7 RESPONSIBILITY. THE COMMANDER OF A MULTIJURISDICTIONAL TASK  
8 FORCE MAY ASSIGN THIS RESPONSIBILITY TO ONE AGENCY.

9 (2) THE SEIZING AGENCY SHALL STORE SEIZED INSTRUMENTALITIES  
10 IN AN APPROPRIATE PLACE FOR PRESERVATION AND MAINTENANCE.

11 (3) THE SEIZING AGENCY SHALL DEPOSIT SEIZED PROCEEDS IN AN  
12 INTEREST-BEARING ACCOUNT PENDING THE EXHAUSTION OF APPEALS OR  
13 THE RECEIPT OF A COURT ORDER TO DISBURSE THE SEIZED PROCEEDS.

14 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, THE  
15 SEIZING AGENCY MAY TAKE REASONABLE ACTIONS, INCLUDING THE USE OF  
16 PHOTOGRAPHY, TO PRESERVE FOR LATER USE EVIDENCE OF THE PROCEEDS  
17 IN PROCEEDINGS HELD PURSUANT TO THIS PART 11 OR IN THE RELATED  
18 CRIMINAL PROSECUTION.

19 **16-13-1111. Receipt.** (1) AT THE TIME OF THE SEIZURE, THE LAW  
20 ENFORCEMENT OFFICER WHO SEIZES THE PROPERTY SHALL GIVE AN  
21 ITEMIZED RECEIPT TO THE PERSON WHO POSSESSES THE PROPERTY.

22 (2) THE ITEMIZED RECEIPT MUST BE NUMBERED FOR REFERENCE  
23 AND CONSTITUTES NOTICE OF SEIZURE.

24 (3) IF THE PERSON WHO POSSESSES THE PROPERTY IS NOT PRESENT  
25 WHEN THE LAW ENFORCEMENT OFFICER SEIZES THE PROPERTY, THE  
26 OFFICER SHALL LEAVE A RECEIPT IN THE PLACE WHERE THE PROPERTY WAS  
27 FOUND, IF POSSIBLE.



1           **16-13-1112. Property exempt from seizure and forfeiture.**

2           (1) THE PROSECUTING AUTHORITY MAY ESTABLISH MINIMUM DOLLAR  
3           AMOUNTS FOR SEIZURE OF UNITED STATES CURRENCY AND MOTOR  
4           VEHICLES IN THE PROSECUTING AUTHORITY'S JURISDICTION. THE  
5           PROSECUTING AUTHORITY SHALL SET THE MINIMUMS IN THE INTERESTS OF  
6           JUSTICE AND EFFICIENT USE OF GOVERNMENT RESOURCES. THE MINIMUMS  
7           MUST BE BASED ON THE PROSECUTING AUTHORITY'S EXCLUSIVE  
8           DETERMINATION AND MAY REFLECT:

9                   (a) THE DETERRENCE THAT MINIMUM-DOLLAR SEIZURES HAVE ON  
10           CRIME;

11                   (b) THE CRIMINAL OFFENSES THAT INCLUDE THE SEIZURE OF  
12           PROPERTY; AND

13                   (c) THE COSTS TO SEIZE AND FORFEIT PROPERTY.

14           (2) THE PROSECUTING AUTHORITY SHALL POST ON ITS WEBSITE THE  
15           PUBLICATIONS THAT LAW ENFORCEMENT AGENCIES MAY USE TO  
16           ESTABLISH THE VALUE OF A MOTOR VEHICLE IN THE PROSECUTING  
17           AUTHORITY'S JURISDICTION. THE PUBLICATIONS MAY INCLUDE THE  
18           KELLEY BLUE BOOK AND THE JD POWER/NADA OFFICIAL USED CAR  
19           GUIDE.

20           **16-13-1113. Waivers permitted and prohibited.** (1) A PERSON

21           FROM WHOM PROPERTY IS SEIZED MAY RELINQUISH THE PERSON'S RIGHTS,  
22           INTERESTS, AND TITLE IN THE SEIZED PROPERTY BY KNOWINGLY AND  
23           VOLUNTARILY EXECUTING A WAIVER THAT IS AGREED TO BY THE  
24           PROSECUTING AUTHORITY.

25                   (2) A WAIVER MAY BE PART OF AN AGREEMENT WITH THE  
26           PROSECUTING AUTHORITY. HOWEVER, THE PROSECUTING AUTHORITY  
27           SHALL NOT CONDITION THE INITIAL ENGAGEMENT IN PLEA NEGOTIATIONS

1 UPON THE WAIVER OF THE PERSON'S RIGHTS, INTERESTS, AND TITLE IN THE  
2 SEIZED PROPERTY.

3 (3) A WAIVER EXECUTED PURSUANT TO SUBSECTIONS (1) AND (2)  
4 OF THIS SECTION IS SUBJECT TO A CLAIM BY A SECURED INTEREST HOLDER,  
5 INNOCENT OWNER, OR OTHER PERSON ENTITLED TO NOTICE PURSUANT TO  
6 SECTION 16-13-1116. THE CLAIMANT MAY CONSENT TO CERTAIN ISSUES  
7 AND REQUEST THAT THE COURT DETERMINE THE REMAINING ISSUES.

8 (4) A LAW ENFORCEMENT OFFICER, OTHER THAN THE PROSECUTING  
9 AUTHORITY, SHALL NOT REQUEST, INDUCE, OR REQUIRE, IN A WAIVER, A  
10 PERSON TO RELINQUISH, FOR PURPOSE OF FORFEITURE, THE PERSON'S  
11 RIGHTS, INTEREST, AND TITLE IN A PROPERTY. SUCH A WAIVER IS VOID AND  
12 INADMISSIBLE IN COURT.

13 **16-13-1114. Title.** TITLE TO THE PROPERTY SUBJECT TO  
14 FORFEITURE IS VESTED WITH THE STATE WHEN THE COURT ISSUES A  
15 FORFEITURE JUDGMENT AND RELATES BACK TO THE TIME WHEN THE LAW  
16 ENFORCEMENT AGENCY SEIZED OR RESTRAINED THE PROPERTY. TITLE TO  
17 SUBSTITUTE ASSETS IS VESTED WHEN THE COURT ISSUES AN ORDER  
18 FORFEITING SUBSTITUTE ASSETS.

19 **16-13-1115. Counsel and pro se representation.** (1) IF A PUBLIC  
20 DEFENDER OR COUNSEL APPOINTED BY THE COURT REPRESENTS A  
21 CLAIMANT-DEFENDANT IN A CRIMINAL MATTER, THE PUBLIC DEFENDER OR  
22 APPOINTED COUNSEL SHALL REPRESENT THE DEFENDANT IN THE RELATED  
23 FORFEITURE PROCEEDING.

24 (2) IF THE DEFENDANT OR A CLAIMANT WHO IS AN INNOCENT  
25 OWNER ENGAGES IN PRO SE REPRESENTATION IN THE FORFEITURE  
26 PROCEEDING BEFORE A JUDGE, THE JUDGE MAY EXERCISE THE JUDGE'S  
27 DISCRETION IN APPLYING THE RULES OF PLEADING, PROCEDURE, OR

1 EVIDENCE.

2 **16-13-1116. Notice to other known owners.** (1) THE  
3 PROSECUTING AUTHORITY SHALL PERFORM A REASONABLE SEARCH OF  
4 VEHICLE REGISTRATIONS, PROPERTY RECORDS, AND OTHER PUBLIC  
5 RECORDS TO IDENTIFY A PERSON, OTHER THAN THE DEFENDANT, KNOWN  
6 TO HAVE AN INTEREST IN THE PROPERTY THAT IS SUBJECT TO FORFEITURE.

7 (2) THE PROSECUTING AUTHORITY OR THE PROSECUTING  
8 AUTHORITY'S DESIGNEE SHALL GIVE NOTICE TO A PERSON IDENTIFIED AS  
9 HAVING AN INTEREST IN THE PROPERTY THAT IS SUBJECT TO FORFEITURE  
10 WHO IS NOT CHARGED OR INDICTED. THE NOTICE MUST INCLUDE THE  
11 SEIZURE RECEIPT NUMBER REQUIRED PURSUANT TO SECTION 16-13-1111.  
12 THE PROSECUTING AUTHORITY OR THE PROSECUTING AUTHORITY'S  
13 DESIGNEE MAY PROVIDE NOTICE BY PUBLICATION IF NOTICE BY PERSONAL  
14 SERVICE IS NOT SUCCESSFUL AFTER REASONABLE ATTEMPTS.

15 (3) THE FOLLOWING LANGUAGE MUST APPEAR SUBSTANTIALLY  
16 AND CONSPICUOUSLY IN THE NOTICE:

17 **WARNING: YOU MAY LOSE THE RIGHT TO BE HEARD IN COURT IF**  
18 **YOU DO NOT FILE A SIMPLE STATEMENT OF INTEREST OR**  
19 **OWNERSHIP PROMPTLY. YOU DO NOT HAVE TO PAY A FILING FEE TO**  
20 **FILE YOUR NOTICE.**

21 (4) IF THE PROSECUTING AUTHORITY OR THE PROSECUTING  
22 AUTHORITY'S DESIGNEE DOES NOT SERVE NOTICE BY PERSONAL SERVICE  
23 OR BY PUBLICATION, AND ALL EXTENSION PERIODS HAVE EXPIRED, THE  
24 COURT SHALL ORDER THE RETURN OF THE PROPERTY WITHIN FIVE DAYS TO  
25 A CLAIMANT WHO HAS A VALID INTEREST IN THE PROPERTY AND IS  
26 ENTITLED TO NOTICE PURSUANT TO SUBSECTION (2) OF THIS SECTION. THE  
27 COURT SHALL NOT ORDER THE RETURN OF CONTRABAND.

1           (5) AFTER THE COURT ISSUES AN ORDER TO RETURN THE  
2 PROPERTY, A FURTHER CLAIM BY A PROSECUTING AUTHORITY TO THE  
3 PROPERTY IS INVALID.

4           (6) NOTWITHSTANDING SUBSECTION (4) OF THIS SECTION, THE  
5 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE  
6 PROPERTY, INCLUDING THE USE OF PHOTOGRAPHIC EVIDENCE, TO  
7 PRESERVE THE PROPERTY FOR LATER USE AS EVIDENCE IN PROCEEDINGS  
8 HELD PURSUANT TO THIS PART 11 OR THE RELATED CRIMINAL  
9 PROSECUTION.

10           **16-13-1117. Prompt post-seizure hearing - return of seized**  
11 **property to obtain counsel.** (1) FOLLOWING SEIZURE OF PROPERTY, A  
12 DEFENDANT OR ANOTHER PERSON WITH AN INTEREST IN THE PROPERTY  
13 HAS A RIGHT TO A PROMPT POST-SEIZURE HEARING.

14           (2) A PERSON WITH AN INTEREST IN THE PROPERTY MAY PETITION  
15 THE COURT FOR A HEARING TO BE HELD WITHIN FOURTEEN DAYS AFTER  
16 FILING THE PETITION.

17           (3) AT THE COURT'S DISCRETION, IT MAY HOLD A PROMPT  
18 POST-SEIZURE HEARING:

19           (a) AS A SEPARATE HEARING; OR

20           (b) AT THE SAME TIME AS A PROBABLE CAUSE HEARING, A  
21 POST-ARRAIGNMENT HEARING, A SUPPRESSION HEARING, AN OMNIBUS  
22 HEARING, OR ANOTHER PRETRIAL HEARING.

23           (4) A PARTY, BY AGREEMENT OR FOR GOOD CAUSE, MAY MOVE FOR  
24 ONE EXTENSION OF THE HEARING DATE. THE PARTY MAY SUPPORT A  
25 MOTION WITH AFFIDAVITS OR OTHER SUBMISSIONS.

26           (5) THE COURT SHALL ORDER THE RETURN OF PROPERTY IF THE  
27 COURT FINDS:

1 (a) THE SEIZURE OF THE PROPERTY WAS UNCONSTITUTIONAL;

2 (b) A CRIMINAL CHARGE HAS NOT BEEN FILED AND NO TIME  
3 REMAINS TO FILE A CHARGE;

4 (c) THE PETITIONER IS AN INNOCENT OWNER OR SECURED INTEREST  
5 HOLDER; OR

6 (d) THE GOVERNMENT'S CONTINUED POSSESSION OF A MOTOR  
7 VEHICLE WILL CAUSE SUBSTANTIAL HARDSHIP TO AN IMMEDIATE FAMILY  
8 MEMBER OF THE DEFENDANT, INCLUDING PREVENTING THE FAMILY  
9 MEMBER FROM WORKING OR INCONVENIENCING THE TRANSPORTATION OF  
10 THE FAMILY MEMBER'S CHILD.

11 (6) UPON THE COURT ORDER TO RETURN THE PROPERTY, A  
12 FURTHER CLAIM BY A PROSECUTING AUTHORITY TO THE PROPERTY IS  
13 INVALID. THE COURT SHALL NOT ORDER THE RETURN OF CONTRABAND.

14 (7) NOTWITHSTANDING SUBSECTION (5) OF THIS SECTION, THE  
15 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE  
16 SEIZED PROPERTY, INCLUDING REQUIRING PHOTOGRAPHIC EVIDENCE OF  
17 THE SEIZED PROPERTY, TO PRESERVE THE PROPERTY FOR LATER USE AS  
18 EVIDENCE IN PROCEEDINGS HELD PURSUANT TO THIS PART 11 OR THE  
19 RELATED CRIMINAL PROSECUTION.

20 **16-13-1118. Notice of proposed forfeiture.** (1) IF THE STATE  
21 SEEKS FORFEITURE OF PROPERTY, THE PROSECUTING AUTHORITY SHALL  
22 FILE WITH THE COURT A NOTICE OF PROPOSED FORFEITURE. THE NOTICE  
23 MUST BE A SEPARATE DOCUMENT. THE NOTICE MUST INCLUDE:

24 (a) A DESCRIPTION OF THE PROPERTY SEIZED;

25 (b) THE TIME, DATE, AND PLACE OF THE SEIZURE;

26 (c) THE SEIZURE RECEIPT NUMBER REQUIRED BY SECTION  
27 16-13-1111; AND

1 (d) A DESCRIPTION OF HOW THE PROPERTY WAS USED IN OR  
2 DERIVED FROM THE ALLEGED CRIME.

3 (2) THE PROSECUTING AUTHORITY SHALL ALLEGE IN THE NOTICE  
4 THAT THE FORFEITURE OF PROPERTY MAY OCCUR AS A PROCESS AFTER THE  
5 CONVICTION OF THE CRIME FOR WHICH THE DEFENDANT IS CHARGED OR AS  
6 PART OF SENTENCING CONSIDERATION. THE COURT SHALL NOT READ THE  
7 NOTICE TO THE JURY.

8 (3) THE PROSECUTING AUTHORITY SHALL SERVE THE NOTICE:

9 (a) WITH THE INITIAL CHARGING INSTRUMENT;

10 (b) SEPARATELY FROM, BUT NOT LATER THAN NINETY DAYS AFTER,  
11 THE PRESENTMENT OF THE CHARGING INSTRUMENT FOR A MISDEMEANOR;

12 (c) NOT LATER THAN THE EARLIER OF NINETY DAYS AFTER  
13 PRESENTMENT TO A GRAND JURY OR ONE HUNDRED EIGHTY DAYS AFTER  
14 AN ARREST FOR A FELONY; OR

15 (d) AT THE COURT'S DISCRETION.

16 (4) AT THE COURT'S DISCRETION, THE COURT MAY ALLOW THE  
17 PROSECUTING AUTHORITY TO AMEND THE NOTICE AS REQUIRED IN THE  
18 INTEREST OF JUSTICE.

19 (5) THE COURT SHALL ORDER THE RETURN OF THE SEIZED  
20 PROPERTY TO THE OWNER IF THE PROSECUTING AUTHORITY DOES NOT FILE  
21 A CHARGING INSTRUMENT AS PROVIDED BY THE COURT'S RULES, THE  
22 PERIOD OF AN EXTENSION EXPIRES, OR THE COURT DOES NOT GRANT AN  
23 EXTENSION UNLESS A CHARGE IS NOT FILED PURSUANT TO AN AGREEMENT  
24 OR WAIVER.

25 (6) UPON THE COURT'S ISSUING AN ORDER TO RETURN THE  
26 PROPERTY, NO FURTHER CLAIM BY A PROSECUTING AUTHORITY TO THE  
27 PROPERTY IS VALID. THE COURT SHALL NOT ORDER THE RETURN OF

1 CONTRABAND.

2 (7) NOTWITHSTANDING SUBSECTION (5) OF THIS SECTION, THE  
3 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE  
4 PROPERTY, INCLUDING THE USE OF PHOTOGRAPHIC EVIDENCE, TO  
5 PRESERVE THE PROPERTY FOR LATER USE AS EVIDENCE IN ANOTHER  
6 CRIMINAL PROSECUTION.

7 **16-13-1119. Discovery.** DISCOVERY RELATED TO THE FORFEITURE  
8 PROCEEDING HELD PURSUANT TO THIS PART 11 IS SUBJECT TO THE RULES  
9 OF CRIMINAL PROCEDURE OR COURT RULES FOR GENERAL DISCOVERY.

10 **16-13-1120. Trial - conviction required and standard of proof.**

11 (1) PROPERTY MAY BE FORFEITED IF:

12 (a) THE STATE SECURES A CONVICTION FOR A CRIME DESCRIBED IN  
13 SECTION 18-18-405, 18-18-406, 18-18-406.2, OR 18-18-406.9; AND

14 (b) THE STATE ESTABLISHES BY A PREPONDERANCE OF THE  
15 EVIDENCE THAT THE SEIZED PROPERTY IS AN INSTRUMENTALITY OF, OR IS  
16 THE PROCEEDS DERIVED DIRECTLY FROM, THE CRIME FOR WHICH THE  
17 STATE SECURED A CONVICTION.

18 (2) THE COURT SHALL HOLD THE FORFEITURE PROCEEDING AFTER  
19 THE DEFENDANT'S CONVICTION IN THE CRIMINAL PROSECUTION. AT ITS  
20 DISCRETION, THE COURT MAY HOLD THE FORFEITURE PROCEEDING AS SOON  
21 AS PRACTICABLE, INCLUDING CONCURRENT WITH SENTENCING. THE COURT  
22 SHALL CONDUCT THE FORFEITURE PROCEEDING WITHOUT A JURY.

23 (3) PROVIDED THAT ALL PERSONS ENTITLED TO NOTICE PURSUANT  
24 TO SECTION 16-13-1116 CONSENT TO THE FORFEITURE, THIS PART 11 DOES  
25 NOT PROHIBIT PROPERTY FROM BEING FORFEITED BY:

26 (a) A CONSENT ORDER OR PLEA AGREEMENT APPROVED BY THE  
27 COURT;

1 (b) A DIVERSION AGREEMENT; OR

2 (c) A GRANT OF IMMUNITY OR REDUCED PUNISHMENT, WITH OR  
3 WITHOUT THE FILING OF A CRIMINAL CHARGE, IN EXCHANGE FOR  
4 TESTIFYING OR ASSISTING A LAW ENFORCEMENT INVESTIGATION OR  
5 PROSECUTION.

6 (4) A PERSON ENTITLED TO NOTICE MAY CONSENT TO SOME ISSUES  
7 AND LITIGATE REMAINING ISSUES BEFORE THE COURT WITHOUT A JURY.

8 **16-13-1121. Exceptions to the conviction requirement.** (1) THE  
9 COURT MAY WAIVE THE CONVICTION REQUIRED PURSUANT TO SECTION  
10 16-13-1120 AND GRANT THE TITLE OF THE SEIZED PROPERTY TO THE STATE  
11 IF THE PROSECUTING AUTHORITY FILES A MOTION NO FEWER THAN NINETY  
12 DAYS AFTER SEIZURE AND SHOWS BY A PREPONDERANCE OF THE EVIDENCE  
13 THAT THE DEFENDANT, BEFORE CONVICTION:

14 (a) ABANDONED THE PROPERTY;

15 (b) ABSCONDED FROM THE JURISDICTION;

16 (c) WAS DEPORTED BY THE UNITED STATES GOVERNMENT;

17 (d) WAS EXTRADITED TO ANOTHER STATE OR FOREIGN  
18 JURISDICTION; OR

19 (e) DIED.

20 (2) NOTWITHSTANDING SUBSECTION (1)(e) OF THIS SECTION, THE  
21 DEFENDANT'S DEATH DOES NOT PRECLUDE THE DEFENDANT'S HEIR OR  
22 LEGATEE FROM FILING A CLAIM AS AN INNOCENT OWNER FOR THE SEIZED  
23 PROPERTY PURSUANT TO SECTION 16-13-1124.

24 **16-13-1122. Proportionality.** (1) THE DEFENDANT MAY PETITION  
25 THE COURT TO DETERMINE WHETHER THE FORFEITURE IS  
26 UNCONSTITUTIONALLY EXCESSIVE UNDER THE STATE CONSTITUTION OR  
27 THE UNITED STATES CONSTITUTION.



1           (2) AT THE COURT'S DISCRETION, THE COURT MAY HOLD A  
2 PROPORTIONALITY HEARING:

3           (a) AS A SEPARATE HEARING;

4           (b) AT THE SAME TIME AS A PROBABLE CAUSE DETERMINATION, A  
5 POST-ARRAIGNMENT HEARING, A SUPPRESSION HEARING, AN OMNIBUS  
6 HEARING, OR ANOTHER PRETRIAL HEARING;

7           (c) AT TRIAL; OR

8           (d) UPON CONVICTION.

9           (3) THE DEFENDANT HAS THE BURDEN OF ESTABLISHING, BY A  
10 PREPONDERANCE OF THE EVIDENCE, THAT THE PROPERTY FORFEITURE IS  
11 UNCONSTITUTIONALLY EXCESSIVE UNDER THE STATE CONSTITUTION OR  
12 THE UNITED STATES CONSTITUTION AT A HEARING CONDUCTED BY THE  
13 COURT WITHOUT A JURY.

14           (4) (a) AT A HEARING PRIOR TO CONVICTION, AS ALLOWED  
15 PURSUANT TO SUBSECTION (2)(a), (2)(b), OR (2)(c) OF THIS SECTION, THE  
16 COURT FIRST MUST DETERMINE, BY A PREPONDERANCE OF THE EVIDENCE,  
17 IF THE PROSECUTING AUTHORITY WILL SECURE A CONVICTION. THE COURT  
18 THEN MUST DETERMINE IF THE FORFEITURE IS UNCONSTITUTIONALLY  
19 EXCESSIVE.

20           (b) AT A HEARING ALLOWED PURSUANT TO SUBSECTION (2) OF THIS  
21 SECTION, THE COURT MAY CONSIDER ALL RELEVANT FACTORS TO  
22 DETERMINE IF THE FORFEITURE IS UNCONSTITUTIONALLY EXCESSIVE,  
23 INCLUDING:

24           (I) THE SERIOUSNESS OF THE CRIME AND ITS IMPACT ON THE  
25 COMMUNITY, INCLUDING THE DURATION OF THE ACTIVITY, USE OF A  
26 FIREARM, AND HARM CAUSED BY THE DEFENDANT;

27           (II) THE EXTENT TO WHICH THE DEFENDANT PARTICIPATED IN THE

1 CRIME;

2 (III) THE EXTENT TO WHICH THE SEIZED PROPERTY WAS INTEGRAL  
3 TO FACILITATING THE CRIME;

4 (IV) WHETHER THE CRIME WAS COMPLETED OR ATTEMPTED; AND

5 (V) THE SENTENCE OR FINE TO BE IMPOSED FOR COMMITTING THE  
6 CRIME.

7 (5) IN DETERMINING THE VALUE OF THE INSTRUMENTALITY  
8 SUBJECT TO FORFEITURE, THE COURT MAY CONSIDER ALL RELEVANT  
9 FACTORS RELATED TO THE FAIR MARKET VALUE OF THE PROPERTY,  
10 INCLUDING INFORMATION IN A PUBLICATION REFERENCED BY THE  
11 PROSECUTING AUTHORITY PURSUANT TO SECTION 16-13-1112.

12 (6) THE COURT MAY NOT CONSIDER THE BENEFIT OR VALUE TO THE  
13 STATE OF THE SEIZED PROPERTY IN DETERMINING WHETHER THE  
14 FORFEITURE IS UNCONSTITUTIONALLY EXCESSIVE.

15 (7) UPON THE COURT'S ISSUING AN ORDER TO RETURN THE  
16 PROPERTY, A FURTHER CLAIM BY A PROSECUTING AUTHORITY TO THE  
17 PROPERTY IS INVALID. THE COURT SHALL NOT ORDER THE RETURN OF  
18 CONTRABAND.

19 **16-13-1123. Secured interest holder.** (1) SEIZED PROPERTY  
20 ENCUMBERED BY A SECURED INTEREST HOLDER MUST NOT BE FORFEITED  
21 UP TO THE VALUE OF THE INTEREST. THE PROSECUTING AUTHORITY SHALL  
22 SUMMARILY RETURN PROPERTY TO A SECURED INTEREST HOLDER UP TO  
23 THE VALUE OF THE INTEREST; EXCEPT THAT THE PROSECUTING AUTHORITY  
24 SHALL NOT RETURN CONTRABAND.

25 (2) IF THE PROPERTY IS NOT SUMMARILY RETURNED, THE SECURED  
26 INTEREST HOLDER MAY MOVE THE COURT AT ANY TIME BEFORE THE COURT  
27 ENTERS JUDGMENT IN THE CRIMINAL PROSECUTION OR GRANTS THE

1 MOTION DESCRIBED IN SECTION 16-13-1121 FOR THE RETURN OF THE  
2 PROPERTY. THE MOTION MUST INCLUDE THE SEIZURE RECEIPT NUMBER  
3 REQUIRED BY SECTION 16-13-1111, IF AVAILABLE.

4 (3) THE COURT SHALL HEAR THE PETITION WITHIN THIRTY-FIVE  
5 DAYS AFTER THE PETITION'S FILING OR AT THE COURT'S DISCRETION. THE  
6 HEARING MUST BE HELD BEFORE THE COURT ALONE, WITHOUT A JURY. THE  
7 COURT MAY CONSOLIDATE THE HEARING ON THE PETITION WITH ANOTHER  
8 HEARING BEFORE THE COURT IN THE CASE.

9 (4) THE SECURED INTEREST HOLDER MUST ALLEGE THE VALIDITY  
10 OF THE SECURITY INTEREST, MORTGAGE, LIEN, LEASEHOLD, LEASE, RENTAL  
11 AGREEMENT, OR OTHER AGREEMENT.

12 (5) IF THE SECURED INTEREST HOLDER ALLEGES A VALID INTEREST  
13 BUT THE PROSECUTING AUTHORITY SEEKS TO PROCEED, THE PROSECUTING  
14 AUTHORITY SHALL PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT:

15 (a) THE INTEREST IS INVALID;

16 (b) THE INTEREST RESULTED FROM A FRAUDULENT TRANSFER;

17 (c) THE INTEREST IS HELD THROUGH A STRAW PURCHASE, TRUST,  
18 OR OTHER MEANS FOR THE BENEFIT OF THE DEFENDANT; OR

19 (d) THE SECURED INTEREST HOLDER CONSENTED TO THE USE OF  
20 THE SEIZED PROPERTY IN THE CRIME FOR WHICH THE DEFENDANT IS  
21 CHARGED.

22 (6) IF THE STATE FAILS TO MEET ITS BURDEN PURSUANT TO  
23 SUBSECTION (5) OF THIS SECTION, THE COURT SHALL ORDER THE STATE TO  
24 RELINQUISH CLAIMS TO THE SEIZED PROPERTY, UP TO THE VALUE OF THE  
25 INTEREST, AND RETURN THE INTEREST TO THE SECURED INTEREST HOLDER  
26 WITHIN FIVE DAYS OF THE COURT'S FINDING.

27 (7) NOTWITHSTANDING SUBSECTION (6) OF THIS SECTION, THE

1 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE  
2 SEIZED PROPERTY, INCLUDING REQUIRING PHOTOGRAPHIC EVIDENCE OF  
3 THE SEIZED PROPERTY, TO PRESERVE THE PROPERTY FOR LATER USE AS  
4 EVIDENCE IN PROCEEDINGS HELD PURSUANT TO THIS PART 11 OR THE  
5 RELATED CRIMINAL PROSECUTION.

6 **16-13-1124. Innocent owner.** (1) THE COURT SHALL NOT FORFEIT  
7 SEIZED PROPERTY OF AN INNOCENT OWNER. THE PROSECUTING AUTHORITY  
8 SHALL SUMMARILY RETURN PROPERTY TO AN INNOCENT OWNER; EXCEPT  
9 THAT THE PROSECUTING AUTHORITY SHALL NOT RETURN CONTRABAND.

10 (2) IF THE PROPERTY IS NOT SUMMARILY RETURNED, AN INNOCENT  
11 OWNER CLAIMANT MAY MOVE THE COURT AT ANY TIME BEFORE THE  
12 COURT ENTERS JUDGMENT IN THE CRIMINAL PROSECUTION OR GRANTS THE  
13 MOTION DESCRIBED IN SECTION 16-13-1121 FOR THE RETURN OF THE  
14 PROPERTY.

15 (3) THE COURT SHALL HEAR THE INNOCENT OWNER CLAIMANT'S  
16 MOTION WITHIN THIRTY-FIVE DAYS AFTER FILING OR AT THE COURT'S  
17 DISCRETION. THE HEARING MUST BE HELD BEFORE THE COURT WITHOUT A  
18 JURY. THE COURT MAY CONSOLIDATE THE HEARING ON THE CLAIMANT'S  
19 MOTION WITH ANOTHER HEARING BEFORE THE COURT IN THE CASE.

20 (4) THE INNOCENT OWNER CLAIMANT MAY PETITION THE COURT BY  
21 FILING A SIMPLE STATEMENT THAT SETS FORTH:

22 (a) THE CLAIMANT'S INTEREST OR REGULAR USE OF THE SEIZED  
23 PROPERTY;

24 (b) THE TIME AND CIRCUMSTANCES OF THE CLAIMANT'S  
25 ACQUISITION OF THE INTEREST IN THE PROPERTY;

26 (c) ADDITIONAL FACTS OR EVIDENCE SUPPORTING THE CLAIMANT'S  
27 CLAIM;

1 (d) AN AFFIRMATION OF THE VALIDITY OF THE INTEREST OR  
2 REGULAR USE OF THE PROPERTY;

3 (e) THE RELIEF SOUGHT BY THE CLAIMANT; AND

4 (f) THE SEIZURE RECEIPT NUMBER REQUIRED BY SECTION  
5 16-13-1111, IF AVAILABLE.

6 (5) THE FILING FEE FOR A CLAIMANT'S PETITION FILED PURSUANT  
7 TO THIS SECTION IS WAIVED.

8 (6) IF THE PROSECUTING AUTHORITY SEEKS TO PROCEED, THE  
9 PROSECUTING AUTHORITY SHALL PROVE BY A PREPONDERANCE OF THE  
10 EVIDENCE THAT THE CLAIMANT IS NOT AN INNOCENT OWNER BECAUSE:

11 (a) THE CLAIMANT DID NOT REGULARLY USE THE SEIZED  
12 PROPERTY;

13 (b) THE CLAIMANT'S INTEREST IN THE SEIZED PROPERTY IS  
14 INVALID;

15 (c) THE CLAIMANT'S INTEREST IS HELD THROUGH A STRAW  
16 PURCHASE, TRUST, OR OTHERWISE FOR THE BENEFIT OF THE DEFENDANT;

17 (d) THE CLAIMANT WAS NOT A BONA FIDE PURCHASER WITHOUT  
18 NOTICE OF ANY DEFECT IN TITLE AND FOR VALUABLE CONSIDERATION;

19 (e) THE CLAIMANT CONSENTED TO THE USE OF THE PROPERTY FOR  
20 THE CRIME FOR WHICH THE DEFENDANT IS CHARGED;

21 (f) THE CLAIMANT WAS WILLFULLY BLIND TO THE CRIME FOR  
22 WHICH THE DEFENDANT IS CHARGED; OR

23 (g) THE CLAIMANT HAD ACTUAL KNOWLEDGE OF THE CRIME AND  
24 THE CLAIMANT DID NOT TAKE REASONABLE STEPS TO PREVENT THE USE OF  
25 THE SEIZED PROPERTY IN THE CRIME FOR WHICH THE DEFENDANT IS  
26 CHARGED; EXCEPT THAT THE CLAIMANT IS NOT REQUIRED TO TAKE STEPS  
27 THE CLAIMANT REASONABLY BELIEVES WOULD SUBJECT THE CLAIMANT TO

1 PHYSICAL DANGER.

2 (7) IF THE PROSECUTING AUTHORITY FAILS TO MEET ITS BURDEN  
3 PURSUANT TO SUBSECTION (6) OF THIS SECTION, THE COURT SHALL ORDER  
4 THE STATE TO RELINQUISH ALL CLAIMS AND RETURN THE SEIZED PROPERTY  
5 TO THE INNOCENT OWNER WITHIN FIVE DAYS AFTER THE COURT'S ORDER.

6 (8) UPON THE COURT ORDER, A FURTHER CLAIM BY A PROSECUTING  
7 AUTHORITY ON THE PROPERTY IS INVALID.

8 (9) NOTWITHSTANDING SUBSECTION (7) OF THIS SECTION, THE  
9 COURT MAY IMPOSE REASONABLE CONDITIONS ON THE RETURN OF THE  
10 SEIZED PROPERTY, INCLUDING REQUIRING PHOTOGRAPHIC EVIDENCE OF  
11 THE SEIZED PROPERTY, TO PRESERVE THE PROPERTY FOR LATER USE AS  
12 EVIDENCE IN PROCEEDINGS HELD PURSUANT TO THIS PART 11 OR THE  
13 RELATED CRIMINAL PROSECUTION.

14 (10)(a) INFORMATION IN THE CLAIMANT'S STATEMENT DESCRIBED  
15 IN SUBSECTION (4) OF THIS SECTION MUST NOT BE USED AS EVIDENCE IN  
16 THE RELATED CRIMINAL PROSECUTION.

17 (b) THIS SECTION DOES NOT PROHIBIT THE CLAIMANT FROM  
18 PROVIDING INFORMATION TO A PARTY OR TESTIFYING IN A TRIAL AS TO  
19 FACTS KNOWN BY THE CLAIMANT.

20 (c) THE DEFENDANT OR CONVICTED OFFENDER MAY INVOKE THE  
21 RIGHT AGAINST SELF-INCRIMINATION, THE SPOUSAL PRIVILEGE GRANTED  
22 PURSUANT TO SECTION 13-90-107 (1)(a)(I), OR THE CIVIL UNION PRIVILEGE  
23 GRANTED PURSUANT TO SECTION 13-90-107 (1)(a.5)(I) DURING THE  
24 FORFEITURE PROCEEDING. THE TRIER OF FACT MAY DRAW AN ADVERSE  
25 INFERENCE FROM THE INVOCATION OF THE RIGHT OR PRIVILEGE.

26 **16-13-1125. Judgment.** (1) IF THE PROSECUTING AUTHORITY  
27 FAILS TO MEET ITS BURDEN IN THE CRIMINAL OR FORFEITURE PROCEEDING,

1 THE COURT SHALL ENTER A JUDGMENT DISMISSING THE FORFEITURE  
2 PROCEEDING AND ORDERING THE RETURN OF SEIZED PROPERTY TO THE  
3 RIGHTFUL OWNER WITHIN FIVE DAYS, UNLESS THE OWNER'S POSSESSION OF  
4 THE SEIZED PROPERTY IS ILLEGAL. THE COURT SHALL NOT ORDER THE  
5 RETURN OF CONTRABAND.

6 (2) (a) IF THE PROSECUTING AUTHORITY MEETS ITS BURDEN IN THE  
7 CRIMINAL AND FORFEITURE PROCEEDINGS, THE COURT SHALL ENTER A  
8 JUDGMENT FORFEITING THE SEIZED PROPERTY.

9 (b) A COURT MAY ENTER A JUDGMENT FOLLOWING A HEARING,  
10 PURSUANT TO A STIPULATION OR PLEA AGREEMENT, OR AT THE COURT'S  
11 DISCRETION.

12 **16-13-1126. Substitution of assets.** (1) UPON THE PROSECUTING  
13 AUTHORITY'S MOTION FOLLOWING CONVICTION OR AT THE COURT'S  
14 DISCRETION, THE COURT MAY ORDER THE FORFEITURE OF ANY SUBSTITUTE  
15 PROPERTY OWNED SOLELY BY THE DEFENDANT UP TO THE VALUE OF  
16 SEIZED PROPERTY THAT IS BEYOND THE COURT'S JURISDICTION OR THAT  
17 CANNOT BE LOCATED THROUGH DUE DILIGENCE, ONLY IF THE STATE  
18 PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT  
19 INTENTIONALLY:

20 (a) DISSIPATED THE PROPERTY;

21 (b) TRANSFERRED, SOLD, OR DEPOSITED THE PROPERTY WITH A  
22 THIRD PARTY TO AVOID FORFEITURE;

23 (c) DIMINISHED SUBSTANTIALLY THE VALUE OF THE PROPERTY; OR

24 (d) COMMINGLED PROPERTY WITH OTHER PROPERTY THAT CANNOT  
25 BE DIVIDED WITHOUT DIFFICULTY.

26 **16-13-1127. Additional remedies not allowed.** THE STATE SHALL  
27 NOT SEEK PERSONAL MONEY JUDGMENTS OR OTHER REMEDIES RELATED TO

1 THE FORFEITURE OF PROPERTY NOT PROVIDED FOR IN THIS PART 11.

2 **16-13-1128. No joint and several liability.** A DEFENDANT IS NOT  
3 JOINTLY AND SEVERALLY LIABLE FOR FORFEITURE AWARDS OWED BY  
4 OTHER DEFENDANTS. WHEN OWNERSHIP IS UNCLEAR, A COURT MAY ORDER  
5 EACH DEFENDANT TO FORFEIT PROPERTY ON A PRO RATA BASIS OR BY  
6 ANOTHER MEANS THE COURT FINDS EQUITABLE.

7 **16-13-1129. Appeals.** (1) A PARTY TO A FORFEITURE  
8 PROCEEDING, OTHER THAN THE DEFENDANT, MAY APPEAL THE COURT'S  
9 ORDER CONCERNING THE DISPOSITION OF THE PROPERTY UPON THE  
10 ISSUANCE OF THE ORDER PURSUANT TO THE COLORADO RULES OF CIVIL  
11 PROCEDURE.

12 (2) THE DEFENDANT MAY APPEAL THE COURT'S DECISION  
13 REGARDING THE SEIZURE OR FORFEITURE OF PROPERTY FOLLOWING FINAL  
14 JUDGMENT IN THE FORFEITURE PROCEEDING.

15 **16-13-1130. Attorney fees - interest.** (1) IN A PROCEEDING IN  
16 WHICH A PROPERTY OWNER'S CLAIM PREVAILS AND THE PROPERTY OWNER  
17 RECOVERS AT LEAST HALF, BY VALUE, OF THE PROPERTY OR CURRENCY  
18 CLAIMED, THE COURT SHALL ORDER THE SEIZING AGENCY OR PROSECUTING  
19 AUTHORITY AT FAULT TO PAY:

20 (a) REASONABLE ATTORNEY FEES AND OTHER LITIGATION COSTS  
21 INCURRED BY THE CLAIMANT; AND

22 (b) INTEREST ON THE VALUE OF THE PROPERTY OR CURRENCY  
23 RECOVERED FROM THE DATE OF SEIZURE.

24 **16-13-1131. Return of property - damages - costs.** (1) (a) IF  
25 THE COURT ORDERS THE RETURN OF SEIZED PROPERTY, THE LAW  
26 ENFORCEMENT AGENCY THAT HOLDS THE SEIZED PROPERTY SHALL RETURN  
27 THE SEIZED PROPERTY TO THE RIGHTFUL OWNER WITHIN A REASONABLE



1 PERIOD OF TIME NOT TO EXCEED FIVE DAYS AFTER THE DATE OF THE  
2 ORDER. THE COURT SHALL NOT ORDER THE RETURN OF CONTRABAND.

3 (b) THE RIGHTFUL OWNER OF THE SEIZED PROPERTY IS NOT  
4 SUBJECT TO EXPENSES RELATED TO TOWING, STORAGE, OR PRESERVATION  
5 OF THE SEIZED PROPERTY.

6 (c) THE LAW ENFORCEMENT AGENCY THAT HOLDS THE SEIZED  
7 PROPERTY IS RESPONSIBLE FOR DAMAGES, STORAGE FEES, AND RELATED  
8 COSTS APPLICABLE TO SEIZED PROPERTY RETURNED PURSUANT TO THIS  
9 SECTION.

10 **16-13-1132. Disposition of property and proceeds.** (1) THE  
11 COURT MAY ORDER CONTRABAND SOLD OR DESTROYED ACCORDING TO  
12 STATE LAW WHEN IT IS NO LONGER NEEDED AS EVIDENCE.

13 (2) THE COURT MAY ORDER SEIZED PROPERTY SOLD AT ANY TIME  
14 WHEN THE SEIZED PROPERTY IS NO LONGER NEEDED AS EVIDENCE.

15 (3) IF FORFEITURE IS GRANTED, THE COURT MAY ORDER THE SALE  
16 OF FORFEITED PERSONAL AND REAL PROPERTY.

17 (4) WHEN ALL FORFEITED PROPERTY IS REDUCED TO PROCEEDS,  
18 THE COURT MAY ORDER, UPON THE CONCLUSION OF ALL DIRECT APPEALS  
19 OR AT ITS DISCRETION, THE DISTRIBUTION OF FORFEITED PROCEEDS TO:

20 (a) PAY RESTITUTION TO THE VICTIM OF THE CRIME;

21 (b) SATISFY SECURED INTEREST HOLDERS IN THE FORFEITED  
22 PROPERTY;

23 (c) PAY REASONABLE COSTS FOR THE TOWING, STORAGE,  
24 MAINTENANCE, REPAIRS, ADVERTISING AND SALE, AND OTHER OPERATING  
25 COSTS RELATED TO THE FORFEITED PROPERTY;

26 (d) REIMBURSE THE SEIZING LAW ENFORCEMENT AGENCY FOR  
27 NON-PERSONNEL OPERATING COSTS, INCLUDING CONTROLLED-DRUG BUY

1 MONEY AND CONFIDENTIAL INFORMANTS, RELATED TO THE INVESTIGATION  
2 OF THE CRIME;

3 (e) REIMBURSE THE PROSECUTING AUTHORITY, PUBLIC DEFENDER,  
4 OR COURT-APPOINTED ATTORNEY FOR COSTS, INCLUDING FILING FEES,  
5 SUBPOENAS, COURT REPORTERS, AND TRANSCRIPTS; AND

6 (f) PAY ONE PERCENT OF THE VALUE OF THE PROPERTY TO THE  
7 CLERK OF THE COURT FOR ADMINISTRATIVE COSTS.

8 (5) AFTER DISBURSEMENTS MADE PURSUANT TO SUBSECTION (4)  
9 OF THIS SECTION, THE BALANCE OF THE PROCEEDS FROM THE SALE OF  
10 FORFEITED PROPERTY MUST BE DELIVERED, UPON ORDER OF THE COURT,  
11 AS FOLLOWS:

12 (a) FIFTY PERCENT TO THE GENERAL FUND OF THE GOVERNMENTAL  
13 BODY OR BODIES WITH BUDGETARY AUTHORITY OVER THE SEIZING  
14 AGENCY FOR PUBLIC SAFETY PURPOSES OR, IF THE SEIZING AGENCY WAS A  
15 MULTIJURISDICTIONAL TASK FORCE, FIFTY PERCENT TO BE DISTRIBUTED IN  
16 ACCORDANCE WITH THE APPROPRIATE INTERGOVERNMENTAL AGREEMENT;

17 (b) TWENTY-FIVE PERCENT TO THE BEHAVIORAL HEALTH  
18 ADMINISTRATIVE SERVICES ORGANIZATION CONTRACTING WITH THE  
19 BEHAVIORAL HEALTH ADMINISTRATION IN THE DEPARTMENT OF HUMAN  
20 SERVICES SERVING THE JUDICIAL DISTRICT WHERE THE FORFEITURE  
21 PROCEEDING WAS PROSECUTED TO FUND DETOXIFICATION AND SUBSTANCE  
22 USE DISORDER TREATMENT. MONEY APPROPRIATED TO THE BEHAVIORAL  
23 HEALTH ADMINISTRATIVE SERVICES ORGANIZATION MUST BE IN ADDITION  
24 TO, AND NOT USED TO SUPPLANT, OTHER FUNDING APPROPRIATED TO THE  
25 BEHAVIORAL HEALTH ADMINISTRATION.

26 (c) TWENTY-FIVE PERCENT TO THE LAW ENFORCEMENT  
27 COMMUNITY SERVICES GRANT PROGRAM FUND, CREATED PURSUANT TO

1 SECTION 24-32-124 (5).

2           **16-13-1133. Sale restrictions.** A LAW ENFORCEMENT AGENCY  
3 SHALL NOT SELL FORFEITED PROPERTY DIRECTLY OR INDIRECTLY TO AN  
4 EMPLOYEE OF THE LAW ENFORCEMENT AGENCY OR TO A PERSON RELATED  
5 TO AN EMPLOYEE OF THE LAW ENFORCEMENT AGENCY WITHIN THE THIRD  
6 DEGREE OF CONSANGUINITY.

7           **16-13-1134. Preemption.** FORFEITURE IS A MATTER OF  
8 STATEWIDE CONCERN. THIS PART 11 PREEMPTS LAWS BY A LOCAL  
9 GOVERNMENT IN THE STATE THAT REGULATES CIVIL AND CRIMINAL  
10 FORFEITURE.

11           **16-13-1135. Limitation on federal adoption.** (1) A STATE OR  
12 LOCAL LAW ENFORCEMENT AGENCY SHALL NOT TRANSFER OR OFFER FOR  
13 ADOPTION PROPERTY SEIZED PURSUANT TO STATE LAW TO A FEDERAL  
14 AGENCY FOR THE PURPOSE OF FORFEITURE PROCEEDINGS HELD PURSUANT  
15 TO 18 U.S.C. CHAPTER 46 OR OTHER FEDERAL LAW UNLESS THE SEIZED  
16 PROPERTY INCLUDES UNITED STATES CURRENCY THAT EXCEEDS FIFTY  
17 THOUSAND DOLLARS.

18           (2) SUBSECTION (1) OF THIS SECTION:

19           (a) APPLIES ONLY TO A SEIZURE BY A STATE OR LOCAL LAW  
20 ENFORCEMENT AGENCY PURSUANT TO ITS OWN AUTHORITY UNDER STATE  
21 LAW AND WITHOUT INVOLVEMENT OF THE FEDERAL GOVERNMENT; AND

22           (b) DOES NOT LIMIT STATE AND LOCAL AGENCIES FROM  
23 PARTICIPATING IN JOINT TASK FORCES WITH THE FEDERAL GOVERNMENT.

24           (3) STATE AND LOCAL LAW ENFORCEMENT AGENCIES ARE  
25 PROHIBITED FROM ACCEPTING PAYMENT OF ANY KIND OR DISTRIBUTION OF  
26 FORFEITURE PROCEEDS FROM THE FEDERAL GOVERNMENT IF THE STATE OR  
27 LOCAL LAW ENFORCEMENT AGENCY VIOLATES SUBSECTION (1) OF THIS

1 SECTION. ALL SUCH PROCEEDS MUST BE DIRECTED TO THE STATE'S  
2 GENERAL FUND.

3 **16-13-1136. Limitation on state and federal joint task forces.**

4 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A JOINT  
5 TASK FORCE OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY AND A  
6 FEDERAL AGENCY SHALL TRANSFER SEIZED PROPERTY TO THE  
7 PROSECUTING AUTHORITY FOR FORFEITURE PROCEEDINGS HELD PURSUANT  
8 TO THIS PART 11.

9 (2) THE JOINT TASK FORCE MAY TRANSFER, PURSUANT TO FEDERAL  
10 LAW, SEIZED PROPERTY TO THE UNITED STATES DEPARTMENT OF JUSTICE  
11 FOR FORFEITURE IF THE SEIZED PROPERTY INCLUDES UNITED STATES  
12 CURRENCY THAT EXCEEDS FIFTY THOUSAND DOLLARS.

13 (3) A LAW ENFORCEMENT AGENCY IS PROHIBITED FROM ACCEPTING  
14 PAYMENT OR DISTRIBUTION OF ANY KIND FROM THE FEDERAL  
15 GOVERNMENT IF THE FEDERAL GOVERNMENT REQUIRES THAT SEIZED  
16 PROPERTY THAT INCLUDES UNITED STATES CURRENCY LESS THAN FIFTY  
17 THOUSAND DOLLARS BE TRANSFERRED TO THE FEDERAL GOVERNMENT FOR  
18 FORFEITURE PURSUANT TO FEDERAL LAW.

19 (4) NOTHING IN SUBSECTION (1) OR (2) OF THIS SECTION PROHIBITS  
20 THE FEDERAL GOVERNMENT, ACTING ALONE, FROM SEIZING PROPERTY AND  
21 SEEKING FORFEITURE PURSUANT TO FEDERAL LAW.

22 **16-13-1137. Guidance.** (1) A PROSECUTING AUTHORITY, AFTER  
23 CONSULTING WITH THE RESPONSIBLE UNITED STATES ATTORNEY, SHALL  
24 ESTABLISH GUIDELINES FOR JOINT TASK FORCES AND  
25 MULTIJURISDICTIONAL COLLABORATION IN THE PROSECUTING  
26 AUTHORITY'S JURISDICTION. THE GUIDELINES MUST BE CONSISTENT WITH  
27 FEDERAL SAFEGUARDS TO ENSURE THAT ACTIVITIES ARE CONDUCTED IN

1 COMPLIANCE WITH THE UNITED STATES DEPARTMENT OF JUSTICE'S  
2 POLICIES.

3 (2) THE DEPARTMENT OF PUBLIC SAFETY MAY OFFER TRAINING ON  
4 SEIZURE AND FORFEITURE DESCRIBED PURSUANT TO THIS PART 11.

5 **SECTION 2.** In Colorado Revised Statutes, **repeal** part 5 and part  
6 of article 13 of title 16.

7 **SECTION 3.** In Colorado Revised Statutes, 13-80-103.8, **amend**  
8 (1) introductory portion; **repeal** (1)(c); and **add** (1)(f) as follows:

9 **13-80-103.8. Limitation of civil forfeiture actions related to**  
10 **criminal acts.** (1) The following actions ~~shall be commenced~~ MUST  
11 COMMENCE within five years after the cause of action accrues, and not  
12 thereafter:

13 (c) ~~All actions brought pursuant to part 5 of article 13 of title 16,~~  
14 ~~C.R.S.;~~

15 (f) ALL ACTIONS BROUGHT PURSUANT TO PART 11 OF ARTICLE 13  
16 OF TITLE 16.

17 **SECTION 4.** In Colorado Revised Statutes, 16-13-701, **amend**  
18 (3) introductory portion; **repeal** (2)(c)(I)(B), (2)(c)(I)(C), (3)(b), and  
19 (3)(c); and **add** (2)(c)(I)(C.5) and (3)(c.5) as follows:

20 **16-13-701. Reports related to seizures and forfeitures -**  
21 **legislative declaration - definitions.** (2) As used in this section, unless  
22 the context otherwise requires:

23 (c) "Reporting agency" means:

24 (I) Any state or local governmental entity that employs a person,  
25 other than a judge or magistrate, who is authorized to effectuate a  
26 forfeiture of real or personal property, pursuant to:

27 (B) ~~Part 5 of this article 13, "Colorado Contraband Forfeiture~~

1 ~~Act~~;  
2 (C) ~~Part 6 of this article 13, receipt of federally forfeited property;~~  
3 ~~or~~  
4 (C.5) PART 11 OF THIS ARTICLE 13; OR  
5 (3) This section applies to property seized ~~under the following~~  
6 PURSUANT TO:  
7 (b) ~~Part 5 of this article 13, "Colorado Contraband Forfeiture~~  
8 ~~Act~~;  
9 (c) ~~Part 6 of this article 13, receipt of federally forfeited property;~~  
10 (c.5) PART 11 OF THIS ARTICLE 13;

11 **SECTION 5.** In Colorado Revised Statutes, 18-17-106, **amend**  
12 (5) as follows:

13 **18-17-106. Civil remedies.** (5) The attorney general or district  
14 attorney may institute civil proceedings ~~under~~ PURSUANT TO this section.  
15 Any action instituted ~~under~~ PURSUANT TO this section ~~shall~~ MUST conform  
16 to the procedures set forth in part 3 ~~or part 5~~ of article 13 of title 16.  
17 ~~C.R.S.~~ In any action brought ~~under~~ PURSUANT TO this section, the district  
18 court shall proceed as soon as practicable to the hearing and  
19 determination. Pending final determination, the district court may, at any  
20 time, enter such injunctions, prohibitions, or restraining orders or take  
21 such actions, including the acceptance of satisfactory performance bonds,  
22 as the court ~~may deem~~ DEEMS proper.

23 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-33.5-225  
24 as follows:

25 **24-33.5-225. Receipt of proceeds from forfeited property.** The  
26 division of the Colorado state patrol is authorized to accept, receive, and  
27 expend proceeds allocated to the division after sale of forfeited property

1 pursuant to ~~part 5~~ PART 11 of article 13 of title 16, ~~C.R.S.~~, and such funds  
2 ~~shall be~~ ARE in addition to the ~~moneys~~ MONEY appropriated to the  
3 division by the general assembly. The executive director shall submit an  
4 annual report to the joint budget committee at the time the annual budget  
5 request is submitted providing information on the amounts received ~~under~~  
6 PURSUANT TO this section, if any, and the uses made thereof.

7 **SECTION 7.** In Colorado Revised Statutes, 24-33.5-522, **amend**  
8 (1)(a), (1)(b) introductory portion, and (1)(b)(I)(A) as follows:

9 **24-33.5-522. Law enforcement assistance grant program -**  
10 **reports.** (1) (a) ~~There~~ THE LAW ENFORCEMENT ASSISTANCE GRANT  
11 PROGRAM is created in the division, ~~the law enforcement assistance grant~~  
12 ~~program~~, referred to in this section as the "grant program", to award  
13 grants to seizing agencies, as defined in section 16-13-301 (2.7), to  
14 reimburse them for money that the agency would have received, except  
15 for section 16-13-306.5, ~~or 16-13-504.5~~ 16-13-1135, OR 16-13-1136. The  
16 division shall administer the grant program pursuant to this section.  
17 Subject to available appropriations, the division shall make grant  
18 payments from money appropriated to the division by the general  
19 assembly for the program.

20 (b) The executive director, or ~~his or her~~ THE EXECUTIVE  
21 DIRECTOR'S designee, shall:

22 (I) Develop policies and procedures:

23 (A) For seizing agencies to apply for grants up to the amount of  
24 money that the agency can establish that it would have received, except  
25 for section 16-13-306.5, ~~or 16-13-504.5~~ 16-13-1135, OR 16-13-1136;

26 **SECTION 8.** In Colorado Revised Statutes, 24-33.5-1214,  
27 **amend** (5)(e) as follows:

1           **24-33.5-1214. Cigarettes - reduced ignition propensity**  
2           **standards - repeal. (5) Penalties - forfeiture.** Effective July 31, 2009:

3           (e) Cigarettes that have been sold or offered for sale and that do  
4 not comply with the performance standard required by subsection (2) of  
5 this section ~~shall be~~ ARE subject to forfeiture as provided in the "~~Colorado~~  
6 ~~Contraband Forfeiture Act~~", ~~part 5~~ "CRIMINAL ASSET FORFEITURE ACT",  
7 PART 11 of article 13 of title 16. ~~C.R.S.~~ Cigarettes forfeited pursuant to  
8 this ~~paragraph (e) shall~~ SUBSECTION (5)(e) MUST be destroyed; except  
9 that, before ~~such~~ destruction, the true holder of the trademark rights in the  
10 cigarette brand ~~shall be~~ IS permitted to inspect the cigarettes if desired.

11           **SECTION 9.** In Colorado Revised Statutes, 28-3-1303, **amend**  
12 (2) as follows:

13           **28-3-1303. Drug interdiction and enforcement plan -**  
14 **requirements.** (2) SUBJECT TO THE LIMITATIONS IN SECTIONS 16-13-1135  
15 AND 16-13-1136, AND notwithstanding any other provision of law, when  
16 participating in operations pursuant to the drug interdiction and  
17 enforcement plan required by this part 13, the National Guard ~~shall be~~ IS  
18 considered a law enforcement agency of the state for purposes of  
19 accepting, receiving, disposing of, and expending the property and  
20 proceeds from any property forfeited to the federal government and  
21 allocated to the National Guard pursuant to ~~section 16-13-601 C.R.S.~~ 21  
22 U.S.C. SEC. 881 (e).

23           **SECTION 10.** In Colorado Revised Statutes, **amend** 28-3-1305  
24 as follows:

25           **28-3-1305. Department of military and veterans affairs**  
26 **counterdrug program federal forfeiture fund - creation.** SUBJECT TO  
27 THE LIMITATIONS IN SECTIONS 16-13-1135 AND 16-13-1136, any ~~moneys~~



1 MONEY accepted by the adjutant general pursuant to ~~section 16-13-601,~~  
2 ~~C.R.S., shall~~ 21 U.S.C. SEC. 881 (e) MUST be transmitted to the state  
3 treasurer, who shall credit the same to the department of military and  
4 veterans affairs counterdrug program federal forfeiture fund, which fund  
5 is ~~hereby~~ created in the state treasury and referred to in this section as the  
6 "fund". All interest and income derived from the investment and deposit  
7 of ~~moneys~~ MONEY in the fund ~~shall be~~ IS credited to the fund. Any  
8 unexpended and unencumbered ~~moneys~~ MONEY remaining in the fund at  
9 the end of a fiscal year ~~shall remain~~ REMAINS in the fund and ~~shall not be~~  
10 IS NOT credited or transferred to the general fund or another fund. ~~Moneys~~  
11 MONEY in the fund ~~shall be~~ IS continuously appropriated to the  
12 department for use by the adjutant general in compliance with state and  
13 federal law.

14 **SECTION 11.** In Colorado Revised Statutes, 33-13-105, **amend**  
15 (3)(b) as follows:

16 **33-13-105. Seizure of vessels by officers - repeal.**

17 (3) (b) (I) Any forfeiture proceeding initiated pursuant to this section  
18 ~~shall~~ MUST be conducted in conformance with ~~section 16-13-505, C.R.S.~~  
19 PART 11 OF ARTICLE 13 OF TITLE 16.

20 (II) For purposes of applying ~~section 16-13-505, C.R.S.,~~ PART 11  
21 OF ARTICLE 13 OF TITLE 16 to a seizure hearing conducted pursuant to this  
22 section, ~~"contraband"~~ "CONVEYANCE" includes any vessel seized in  
23 accordance with this section.

24 **SECTION 12.** In Colorado Revised Statutes, 39-28-306, **amend**  
25 (2) as follows:

26 **39-28-306. Penalties and other remedies. (2) Contraband and**  
27 **seizure.** Any cigarettes that have been sold, offered for sale, or possessed

1 for sale in this state in violation of section 39-28-303 (3) ~~shall be deemed~~  
2 ~~a contraband article as defined by section 16-13-502 (1), C.R.S. The~~  
3 ~~cigarettes shall be~~ ARE subject to seizure and forfeiture as provided in the  
4 "~~Colorado Contraband Forfeiture Act~~", ~~part 5~~ "CRIMINAL ASSET  
5 FORFEITURE ACT", PART 11 of article 13 of title 16, ~~C.R.S.~~, and any  
6 cigarettes so seized and forfeited ~~shall~~ MUST be destroyed and not resold.

7 **SECTION 13. Act subject to petition - effective date -**  
8 **applicability.** (1) This act takes effect September 1, 2025; except that,  
9 if a referendum petition is filed pursuant to section 1 (3) of article V of  
10 the state constitution against this act or an item, section, or part of this act  
11 within the ninety-day period after final adjournment of the general  
12 assembly, then the act, item, section, or part will not take effect unless  
13 approved by the people at the general election to be held in November  
14 2026 and, in such case, will take effect on the date of the official  
15 declaration of the vote thereon by the governor.

16 (2) This act applies to seizures occurring on or after the applicable  
17 effective date of this act.