

# S.B. 70

## ASSET FORFEITURE TRANSPARENCY AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 3

FEBRUARY 2, 2017 10:43 AM

Senator **Howard A. Stephenson** proposes the following amendments:

1. *Page 1, Lines 12 through 18:*

12 This bill:

13 ▶ in addition to current reporting requirements, requires that law enforcement  
14 agencies reporting on a forfeiture action shall include:

\* \* \* *Some lines not shown* \* \* \*

- the agency's costs incurred in making the required reports;
- 18 • the agency's costs incurred for storage of storing seized property; and

2. *Page 2, Lines 31 through 32:*

31 AMENDS:

24-4-115, as last amended by Laws of Utah 2014, Chapter 112

32 24-4-118, as enacted by Laws of Utah 2015, Chapter 134

3. *Page 2, Line 34:*

34 *Be it enacted by the Legislature of the state of Utah:*

= Section 1. Section 24-4-115 is amended to read:

**24-4-115. Disposition and allocation of forfeiture property.**

(1) Upon finding that property is subject to forfeiture under this chapter, the court shall order the property forfeited to the state.

(2) (a) If the property is not currency, the seizing agency shall authorize a public or otherwise commercially reasonable sale of that property that is not required by law to be destroyed and that is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, it shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and its package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, it shall be destroyed, except that prior to the destruction of any cigarette or other tobacco product seized pursuant

to this part, the lawful holder of the trademark rights in the cigarette or tobacco product brand shall be permitted to inspect the cigarette.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the seizing agency until transferred to the state in accordance with this chapter.

(3) From the forfeited property, both currency and the proceeds or revenue from the sale of the property, the seizing agency shall:

(a) deduct the seizing agency's direct costs , expense of reporting under Section 24-4-118, and expenses of obtaining and maintaining the property pending forfeiture; and

(b) pay the office of the prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from any violation relating to wildlife resources, the remaining currency and the proceeds or revenue from the sale of the property shall be deposited in the Wildlife Resources Account created in Section 23-14-13.

(5) The remaining currency and the proceeds or revenue from the sale of the property shall then be transferred to the commission and deposited into the account.

**Renumber remaining sections accordingly.**

4. Page 2, Lines 37 through 41:

37 (1) On and after January 1, 2016, every state, county, municipal, or other law  
38 enforcement agency shall~~[- when transferring the final disposition of any civil or criminal~~  
39 ~~forfeiture matter to the Commission on Criminal and Juvenile Justice as required under this~~  
40 ~~chapter,]~~ provide all reasonably available data described in Subsection (5), along with the transfer of any  
41 applicable forfeited property[-:];

5. Page 3, Lines 59 through 83:

59 (5) The data for any civil or criminal forfeiture matter for which final disposition has  
60 been made under Subsection (1) shall include:

\* \* \* *Some lines not shown* \* \* \*

82 (m) the agency's direct costs , expense of reporting under this section, and expenses for obtaining  
and maintaining the seized  
83 property, as described in Subsection 24-4-115(3)(a);