

**Effective 5/4/2022**

**Renumbered 5/3/2023**

**24-4-102 Property subject to forfeiture.**

- (1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:
  - (a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and
  - (b) seized proceeds.
- (2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.
- (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:
  - (a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:
    - (i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);
    - (ii) a felony violation under Subsection 76-5-102.1(2)(b);
    - (iii) a violation under Section 76-5-207; or
    - (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or
  - (b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:
    - (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:
      - (A) Section 41-6a-502;
      - (B) Section 41-6a-517;
      - (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);
      - (D) Section 41-6a-520;
      - (E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
      - (F) Section 76-5-102.1;
      - (G) Section 76-5-207; or
      - (H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or
    - (ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through (H):
      - (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and
      - (B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through (H).

- (4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.