
By: Delegates Rosenberg and T. Murphy

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Reclaiming Public Spaces Act**

3 FOR the purpose of establishing that a vehicle that is used or intended for use in
4 soliciting from a prostitute an act of prostitution or for use in an act of illegal
5 dumping is subject to seizure and forfeiture under certain circumstances; requiring
6 certain notices, hearings, and other procedures for the seizure and forfeiture of
7 vehicles; authorizing police officers to issue citations to certain persons that violate
8 certain provisions of law on controlled dangerous substances under certain
9 circumstances; requiring certain persons that are issued a citation to appear in
10 court; defining certain terms; and generally relating to the seizure and forfeiture of
11 vehicles for prostitution or illegal dumping offenses and to citations issued for
12 certain controlled dangerous substance offenses.

13 BY adding to

14 Article - Courts and Judicial Proceedings
15 Section 3-1401 through 3-1408 to be under the new subtitle "Subtitle 14. Forfeiture
16 of Vehicles for Soliciting an Act of Prostitution or Illegal Dumping"
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1995 Supplement)

19 BY adding to

20 Article 27 - Crimes and Punishments
21 Section 287C
22 Annotated Code of Maryland
23 (1992 Replacement Volume and 1995 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Courts and Judicial Proceedings**

2 SUBTITLE 14. FORFEITURE OF VEHICLES FOR SOLICITING AN ACT OF
3 PROSTITUTION OR ILLEGAL DUMPING.

4 3-1401.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "CHIEF EXECUTIVE OFFICER" MEANS:

8 (1) FOR BALTIMORE CITY, THE MAYOR;

9 (2) FOR CHARTER COUNTIES, THE COUNTY EXECUTIVE;

10 (3) FOR CODE COUNTIES, THE COUNTY COMMISSIONERS OR COUNTY
11 COUNCIL;

12 (4) FOR COMMISSION COUNTIES, THE COUNTY COMMISSIONERS; AND

13 (5) FOR MUNICIPAL CORPORATIONS, THE LEGISLATIVE BODY
14 ESTABLISHED BY MUNICIPAL CHARTER.

15 (C) "COURT COSTS" MEANS THE FEES REQUIRED UNDER § 7-201 OR § 7-301 OF
16 THIS ARTICLE.

17 (D) "FORFEITING AUTHORITY" MEANS:

18 (1) THE OFFICE OR PERSON DESIGNATED, FROM TIME TO TIME, BY
19 AGREEMENT BETWEEN THE STATE'S ATTORNEY FOR A COUNTY AND THE CHIEF
20 EXECUTIVE OFFICER OF THE GOVERNING BODY HAVING JURISDICTION OVER THE
21 ASSETS SUBJECT TO FORFEITURE;

22 (2) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
23 DESIGNEE; OR

24 (3) WHEN THE SEIZING AGENCY IS AN INSTRUMENTALITY OF THE
25 STATE, BY AGREEMENT WITH A STATE'S ATTORNEY, OR COUNTY OR MUNICIPAL
26 ATTORNEY, AN OFFICE OR PERSON DESIGNATED BY THE ATTORNEY GENERAL OR
27 THE ATTORNEY GENERAL'S DESIGNEE AS FORFEITING AUTHORITY TO ACT ON
28 BEHALF OF THE STATE REGARDING ANY ASSETS SUBJECT TO FORFEITURE BY THE
29 STATE.

30 (E) "GOVERNING BODY" INCLUDES:

31 (1) THE STATE, IF THE SEIZING AGENCY IS AN INSTRUMENTALITY OF
32 THE STATE;

33 (2) A COUNTY, IF THE SEIZING AGENCY IS AN INSTRUMENTALITY OF A
34 COUNTY;

35 (3) A MUNICIPALITY, IF THE SEIZING AGENCY IS AN INSTRUMENTALITY
36 OF A MUNICIPALITY; AND

3

1 (4) BALTIMORE CITY, IF THE SEIZING AGENCY IS THE BALTIMORE CITY
2 POLICE DEPARTMENT.

3 (F) "LIEN" INCLUDES A PLEDGE, SECURITY INTEREST, ENCUMBRANCE, LIEN,
4 OR RIGHT OF SET-OFF.

5 (G) "LIENHOLDER" MEANS A PERSON WHO HAS A LIEN ON A VEHICLE
6 CREATED BEFORE THE SEIZURE.

7 (H) "PARTY" MEANS ANY PERSON WHO HAS AN INTEREST IN ANY VEHICLE
8 THAT THE STATE OR OTHER GOVERNING BODY IS SEEKING TO FORFEIT UNDER
9 THIS SUBTITLE.

10 (I) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, ASSOCIATION,
11 PARTNERSHIP, OR OTHER ENTITY.

12 (J) "SEIZING AGENCY" MEANS ANY LAW ENFORCEMENT AGENCY WITHIN
13 THE STATE.

14 (K) "VEHICLE" MEANS ANY DEVICE IN, ON, OR BY WHICH ANY INDIVIDUAL
15 OR PROPERTY IS OR MIGHT BE TRANSPORTED OR TOWED ON A HIGHWAY.

16 3-1402.

17 (A) ANY VEHICLE IS SUBJECT TO SEIZURE AND FORFEITURE UNDER THIS
18 SUBTITLE WITHOUT ANY PREREQUISITE THAT CRIMINAL PROCEEDINGS HAVE
19 COMMENCED OR CRIMINAL SANCTIONS HAVE BEEN IMPOSED, IF THE VEHICLE IS
20 USED OR WAS INTENDED FOR USE IN:

21 (1) SOLICITING FROM A PROSTITUTE AN ACT OF PROSTITUTION OR
22 LEWDNESS IN VIOLATION OF ARTICLE 27, § 15 OF THE CODE; OR

23 (2) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL OR
24 SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE.

25 (B) AN OWNER'S INTEREST IN A VEHICLE MAY NOT BE FORFEITED UNDER
26 THIS SUBTITLE IF THE OWNER DID NOT KNOW THAT THE VEHICLE WAS USED OR
27 WAS LIKELY TO BE USED IN CONNECTION WITH:

28 (1) SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN VIOLATION
29 OF ARTICLE 27, § 15 OF THE CODE; OR

30 (2) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL OR
31 SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE.

32 (C) AN INTEREST OF A BONA FIDE PURCHASER FOR VALUE MAY NOT BE
33 FORFEITED UNDER THIS SUBTITLE IF:

34 (1) THE PURCHASER DID NOT KNOW THAT THE VEHICLE WAS USED OR
35 WAS LIKELY TO BE USED IN CONNECTION WITH:

36 (I) SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN
37 VIOLATION OF ARTICLE 27, § 15 OF THE CODE; OR

4

1 (II) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL
2 OR SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE; AND

3 (2) THE USE WAS WITHOUT THE PURCHASER'S CONSENT, EXPRESS OR
4 IMPLIED.

5 (D) A LIENHOLDER'S INTEREST MAY NOT BE FORFEITED UNDER THIS
6 SUBTITLE IF THE LIEN WAS CREATED WITHOUT KNOWLEDGE THAT THE VEHICLE
7 WAS BEING USED OR WAS INTENDED TO BE USED IN CONNECTION WITH:

8 (1) SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN VIOLATION
9 OF ARTICLE 27, § 15 OF THE CODE; OR

10 (2) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL OR
11 SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE.

12 (E) A VEHICLE USED BY A PERSON AS A COMMON CARRIER OR VEHICLE FOR
13 HIRE IN THE TRANSACTION OF BUSINESS AS A COMMON CARRIER OR VEHICLE FOR
14 HIRE MAY NOT BE SEIZED OR FORFEITED UNDER THIS SUBTITLE, UNLESS IT
15 APPEARS THAT THE OWNER OR OTHER PERSON IN CHARGE OF THE VEHICLE WAS A
16 CONSENTING PARTY OR HAD KNOWLEDGE OF:

17 (1) THE SOLICITATION OF AN ACT OF PROSTITUTION OR LEWDNESS IN
18 VIOLATION OF ARTICLE 27, § 15 OF THE CODE; OR

19 (2) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL OR
20 SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE.

21 3-1403.

22 (A) A VEHICLE SUBJECT TO FORFEITURE UNDER THIS SUBTITLE MAY BE
23 SEIZED PURSUANT TO LEGAL PROCESS OR ISSUANCE OF AN ORDER BY ANY COURT
24 THAT HAS JURISDICTION OVER THE VEHICLE, EXCEPT THAT SEIZURE WITHOUT
25 LEGAL PROCESS OR AN ORDER OF COURT MAY BE MADE WHEN:

26 (1) THE SEIZURE IS INCIDENT TO AN ARREST OR A SEARCH UNDER A
27 SEARCH WARRANT;

28 (2) THE VEHICLE SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF A
29 PRIOR JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL PROCEEDING OR
30 FORFEITURE PROCEEDING UNDER THIS SUBTITLE; OR

31 (3) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE VEHICLE HAS
32 BEEN USED OR IS INTENDED FOR USE IN CONNECTION WITH:

33 (I) SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN
34 VIOLATION OF ARTICLE 27, § 15 OF THE CODE; OR

35 (II) THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL
36 OR SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE.

37 (B) NOTICE OF SEIZURE OF A VEHICLE SHALL BE SENT BY THE SEIZING
38 AGENCY TO ALL KNOWN LIENHOLDERS WITHIN 10 DAYS AFTER THE IDENTITY OF
39 THE LIENHOLDERS IS KNOWN.

5

1 (C) (1) IF AN OWNER OF A SEIZED VEHICLE WANTS TO OBTAIN POSSESSION
2 OF THE VEHICLE, THE OWNER SHALL NOTIFY THE FORFEITING AUTHORITY.

3 (2) IF THE VEHICLE IS NOT NEEDED FOR EVIDENTIARY PURPOSES IN A
4 JUDICIAL PROCEEDING, THE FORFEITING AUTHORITY SHALL OBTAIN AN
5 APPRAISAL OF THE VALUE OF THE VEHICLE FROM THE SHERIFF OF THE
6 JURISDICTION IN WHICH THE FORFEITING AUTHORITY IS LOCATED.

7 (3) NOTICE OF THE APPRAISAL SHALL BE SENT TO ALL LIENHOLDERS
8 SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR NOTICE OR THE PERFECTION OF
9 THE LIEN.

10 (4) (I) ON THE FILING OF AN APPRAISAL, THE OWNER MAY GIVE
11 BOND PAYABLE TO THE CLERK OF THE COURT OF THAT JURISDICTION IN AN
12 AMOUNT EQUAL TO THE GREATER OF THE APPRAISED VALUE OF THE VEHICLE
13 PLUS COSTS WHICH MAY ACCRUE, OR THE AGGREGATE AMOUNT OF THE LIENS ON
14 THE VEHICLE AS SHOWN IN THE RECORDS PRESCRIBED BY LAW FOR THE NOTICE
15 OR PERFECTION OF LIENS, WITH SECURITY TO BE APPROVED BY THE CLERK OF THE
16 COURT, AND CONDITIONED FOR PERFORMANCE ON THE FINAL DETERMINATION OF
17 THE FORFEITING AUTHORITY OR FINAL JUDGMENT BY THE COURT.

18 (II) THE BOND AUTHORIZED IN THIS SUBSECTION SHALL BE FILED
19 IN THE DISTRICT COURT OR CIRCUIT COURT WHERE THE CRIMINAL ACTION THAT
20 GAVE RISE TO THE SEIZURE IS PENDING AND SHALL BE PART OF THAT SAME
21 CRIMINAL PROCEEDING, UNLESS A COMPLAINT FOR FORFEITURE HAS BEEN FILED.
22 HOWEVER, IF NO CRIMINAL ACTION IS PENDING OR IF NO FORFEITURE COMPLAINT
23 HAS BEEN FILED, THE BOND SHALL BE FILED IN THE CIRCUIT COURT OR DISTRICT
24 COURT OF THE JURISDICTION WHERE THE PROPERTY WAS SEIZED.

25 (5) (I) IF FORFEITURE OF A VEHICLE OR OF AN INTEREST OR EQUITY
26 IN A VEHICLE IS DIRECTED UNDER THIS SUBTITLE, JUDGMENT SHALL BE ENTERED
27 AGAINST THE OBLIGORS ON THE BOND WITHOUT FURTHER PROCEEDINGS, TO BE
28 DISCHARGED BY PAYMENT OF THE AMOUNT OF THE BOND, ON WHICH JUDGMENT
29 MAY ISSUE.

30 (II) PAYMENT OF THE AMOUNT OF THE BOND SHALL BE APPLIED
31 AS FOLLOWS:

32 1. TO THE COURT COSTS, IF ANY, OF THE FORFEITURE
33 PROCEEDING;

34 2. TO THE BALANCE DUE TO EACH LIENHOLDER
35 ACCORDING TO THEIR PRIORITY;

36 3. TO THE PAYMENT OF ALL OTHER EXPENSES INCLUDING
37 NOTICE OF FORFEITURE, FILING OF LIENS, EXPENSES OF SEIZURE, AND
38 MAINTENANCE OF CUSTODY; AND

39 4. TO THE APPROPRIATE GOVERNING BODY'S GENERAL
40 FUND, UNLESS OTHERWISE ORDERED BY THE COURT.

6

1 3-1404.

2 (A) ANY OWNER OR LIENHOLDER MAY FILE A CIVIL ACTION SEEKING TO
3 LITIGATE THE ISSUE OF FORFEITURE OR BONA FIDE LIEN AT ANY TIME WITHIN 18
4 MONTHS AFTER THE SEIZURE.

5 (B) THE COMPLAINT SHALL CONTAIN THE FOLLOWING:

6 (1) THE NAME AND TITLE OF THE OFFICIAL WHO HAS CUSTODY OF THE
7 VEHICLE;

8 (2) THE INTEREST THAT THE PLAINTIFF HAS IN THE VEHICLE AND HOW
9 THE PLAINTIFF OBTAINED THE INTEREST; AND

10 (3) THE REASONS WHY THE VEHICLE IS NOT SUBJECT TO FORFEITURE
11 AND SHOULD BE RETURNED.

12 (C) A VEHICLE TAKEN OR DETAINED UNDER THIS SUBTITLE IS NOT SUBJECT
13 TO REPLEVIN, BUT SHALL BE DEEMED TO BE IN THE CUSTODY OF THE SEIZING
14 AGENCY SUBJECT ONLY TO THE ORDERS AND DECREES OF THE COURT.

15 (D) WITHIN 10 DAYS AFTER THE OFFICIAL WHO HAS CUSTODY OF THE
16 VEHICLE HAS ANSWERED THE COMPLAINT, ALL NOTICES REQUIRED BY THIS
17 SUBTITLE TO OWNERS AND LIENHOLDERS SHALL BE GIVEN, AND THE CASE SHALL
18 PROCEED IN THE SAME MANNER AS A COMPLAINT FILED UNDER § 3-1405 OF THIS
19 SUBTITLE.

20 3-1405.

21 (A) A VEHICLE MAY BE FORFEITED IN THE MANNER PROVIDED IN THIS
22 SECTION.

23 (B) (1) A COMPLAINT SEEKING FORFEITURE OF ANY SEIZED VEHICLE
24 SHALL BE FILED WITHIN 90 DAYS AFTER THE SEIZURE.

25 (2) THE COMPLAINT SHALL BE BROUGHT AS AN IN REM PROCEEDING
26 AND SHALL INCLUDE THE FOLLOWING:

27 (I) THE NAMES AND ADDRESSES OF THE FORFEITING
28 AUTHORITY, AND, IF KNOWN, OF ANY OWNERS OF THE VEHICLE AND ANY
29 LIENHOLDERS;

30 (II) A STATEMENT OF THE BASIS FOR FORFEITURE;

31 (III) A STATEMENT SETTING FORTH ANY CONTENTION THAT A
32 PARTY KNEW OR SHOULD HAVE KNOWN THAT THE VEHICLE WAS BEING OR WAS
33 INTENDED TO BE USED IN CONNECTION WITH:

34 1. SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS IN
35 VIOLATION OF ARTICLE 27, § 15 OF THE CODE; OR

36 2. THE DISCHARGE, DISPOSAL, OR DUMPING OF ANY
37 MATERIAL OR SUBSTANCE IN VIOLATION OF THE LAWS OF THE STATE;

7

1 (IV) A PRAYER THAT THE VEHICLE BE FORFEITED TO THE
2 APPROPRIATE GOVERNING BODY; AND

3 (V) AN OATH OR AFFIRMATION BY THE FORFEITING AUTHORITY
4 THAT THE CONTENTS OF THE COMPLAINT ARE TRUE TO THE BEST OF THE
5 AFFIANT'S KNOWLEDGE, INFORMATION, AND BELIEF.

6 (C) WITHIN 10 DAYS AFTER THE FILING OF THE COMPLAINT, THE FORFEITING
7 AUTHORITY SHALL:

8 (1) BY CERTIFIED AND FIRST CLASS MAIL, SEND A COPY OF THE
9 COMPLAINT TO ALL KNOWN OWNERS AND LIENHOLDERS WHOSE IDENTITIES ARE
10 REASONABLY SUBJECT TO DISCOVERY; AND

11 (2) CAUSE A NOTICE THAT INCLUDES A DESCRIPTION OF THE VEHICLE,
12 THE DATE AND PLACE OF SEIZURE, THE KNOWN OWNERS AND LIENHOLDERS OF
13 THE VEHICLE, THE VIOLATION OF LAW ALLEGED TO BE THE BASIS FOR
14 FORFEITURE, A STATEMENT THAT A COMPLAINT HAS BEEN FILED AND THAT THE
15 VEHICLE SHALL BE FORFEITED IF NO ANSWER IS FILED TIMELY, AND INSTRUCTIONS
16 ON WHERE TO FILE AN ANSWER AND WHOM TO CONTACT FOR ADDITIONAL
17 INFORMATION CONCERNING THE FORFEITURE TO BE:

18 (I) POSTED BY THE SHERIFF AT THE COURTHOUSE DOOR OR ON A
19 BULLETIN BOARD WITHIN ITS IMMEDIATE VICINITY; OR

20 (II) PUBLISHED AT LEAST ONCE A WEEK IN EACH OF 3 SUCCESSIVE
21 WEEKS IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION PUBLISHED IN
22 THE COUNTY IN WHICH THE ACTION IS PENDING.

23 (D) (1) WITHIN 30 DAYS AFTER THE COMPLAINT IS SENT OR THE FINAL
24 NOTICE BY POSTING OR PUBLICATION, WHICHEVER IS LATER, A PARTY CONTESTING
25 THE FORFEITURE SHALL FILE AN ANSWER TO THE COMPLAINT.

26 (2) THE ANSWER SHALL COMPLY WITH THE MARYLAND RULES AND SET
27 FORTH:

28 (I) THE NATURE AND EXTENT OF THE PARTY'S RIGHT, TITLE, OR
29 INTEREST IN THE VEHICLE;

30 (II) THE DATE AND CIRCUMSTANCES OF THE CREATION OF THE
31 PARTY'S RIGHT, TITLE, OR INTEREST IN THE VEHICLE; AND

32 (III) THE RELIEF CLAIMED.

33 (E) (1) THE COURT SHALL SET A HEARING ON THE FORFEITURE CLAIM
34 WITHIN 60 DAYS AFTER POSTING OR FINAL PUBLICATION OF THE NOTICE UNDER
35 SUBSECTION (C) OF THIS SECTION WHERE AN ANSWER HAS BEEN TIMELY FILED.

36 (2) THE COURT MAY ORDER WITHOUT A HEARING FORFEITURE OF
37 THE PROPERTY INTEREST OF ANY PARTY THAT FAILS TO FILE AN ANSWER IN A
38 TIMELY FASHION.

1 3-1406.

2 (A) A COURT ORDER OF FORFEITURE SHALL BE DEEMED TO PROVIDE GOOD
3 AND SUFFICIENT TITLE TO THE SEIZED VEHICLE IN THE GOVERNING BODY SUBJECT
4 TO ALL LIENS ON THE VEHICLE CREATED BEFORE THE SEIZURE.

5 (B) (1) (I) ON ENTRY OF AN ORDER OF FORFEITURE AND IF A
6 FORFEITED VEHICLE IS SUBJECT TO A LIEN CREATED WITHOUT THE LIENHOLDER'S
7 KNOWLEDGE THAT THE VEHICLE WAS BEING, OR WAS INTENDED TO BE, USED IN
8 CONNECTION WITH SOLICITING AN ACT OF PROSTITUTION OR LEWDNESS OR THE
9 DISCHARGE, DISPOSAL, OR DUMPING OF ANY MATERIAL OR SUBSTANCE IN
10 VIOLATION OF THE LAWS OF THE STATE, OR IF THERE IS NO CONTRARY
11 ALLEGATION IN THE COMPLAINT, THE COURT SHALL ORDER THAT FORFEITED
12 VEHICLE TO BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY LIENHOLDER.

13 (II) IF THE ONLY LIENHOLDER IS A JUDGMENT CREDITOR, THE
14 COURT'S ORDER SHALL PROVIDE FOR THE VEHICLE TO BE RELEASED TO THE
15 SHERIFF.

16 (2) UNLESS A LONGER TIME PERIOD IS AGREED TO BY THE FORFEITING
17 AUTHORITY AND THE LIENHOLDER, THE LIENHOLDER TO WHOM THE VEHICLE IS
18 RELEASED SHALL SELL THE FORFEITED VEHICLE WITHIN 60 DAYS AFTER THE
19 VEHICLE IS FORFEITED.

20 (3) THE SALE SHALL BE CONDUCTED IN A COMMERCIALY
21 REASONABLE MANNER, WITHOUT ANY REQUIREMENT OF NOTICE TO ANY OWNER
22 OR OTHER LIENHOLDER.

23 (4) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS FOLLOWS:

24 (I) TO THE COURT COSTS, IF ANY, OF THE FORFEITURE
25 PROCEEDINGS;

26 (II) TO THE BALANCE DUE TO EACH LIENHOLDER ACCORDING TO
27 THEIR PRIORITY;

28 (III) TO THE PAYMENT OF ALL OTHER EXPENSES INCLUDING
29 PUBLICATION OF NOTICE OF FORFEITURE, FILING OF LIENS, EXPENSES OF SEIZURE,
30 AND MAINTENANCE OF CUSTODY; AND

31 (IV) TO THE APPROPRIATE GOVERNING BODY'S GENERAL FUND.

32 (C) (1) IF THE FORFEITED VEHICLE IS NOT SUBJECT TO ANY LIENS, AND
33 THE SEIZING AGENCY OR APPROPRIATE GOVERNING BODY DOES NOT WANT TITLE
34 TO THE VEHICLE, OR IF THE LIENHOLDER ENTITLED TO SELL THE VEHICLE
35 PURSUANT TO AN ORDER OF FORFEITURE DOES NOT TAKE POSSESSION WITHIN 30
36 DAYS AFTER NOTICE BY THE FORFEITING AUTHORITY OF FORFEITURE, THE
37 FORFEITED VEHICLE SHALL BE SOLD BY THE CUSTODIAN OR THE CUSTODIAN'S
38 DESIGNEE IN A COMMERCIALY REASONABLE MANNER WITHOUT ANY
39 REQUIREMENT OF NOTICE OF THE SALE.

40 (2) THE PROCEEDS OF THE SALE SHALL BE APPLIED AS SET FORTH IN
41 SUBSECTION (B)(4) OF THIS SECTION.

9

1 3-1407.

2 (A) (1) IF PROCEEDINGS RELATING TO THE VEHICLE ARE NOT INSTITUTED
3 BY THE FORFEITING AUTHORITY WITHIN THE APPROPRIATE TIME, AN OWNER OR
4 LIENHOLDER MAY FILE A COMPLAINT IN THE APPROPRIATE COURT FOR THE
5 RETURN OF THE VEHICLE SEIZED UNDER § 3-1404 OF THIS SUBTITLE.

6 (2) IF NO COMPLAINT IS FILED WITHIN THE TIME REQUIRED BY § 3-1404
7 OF THIS SUBTITLE, THE VEHICLE SHALL BE FORFEITED BY DEFAULT TO THE
8 APPROPRIATE GOVERNING BODY.

9 (B) WITHIN 10 DAYS AFTER A FORFEITURE OF A VEHICLE BY DEFAULT
10 UNDER SUBSECTION (A) OF THIS SECTION, THE FORFEITING AUTHORITY SHALL
11 SEND A NOTICE BY CERTIFIED MAIL TO ALL LIENHOLDERS OF RECORD AND ANY
12 OTHER KNOWN LIENHOLDER THAT THE VEHICLE HAS BEEN FORFEITED.

13 (C) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE REQUIRED UNDER
14 SUBSECTION (B) OF THIS SECTION, A LIENHOLDER SHALL SEND NOTICE BY
15 CERTIFIED MAIL TO THE FORFEITING AUTHORITY OF THE LIENHOLDER'S INTENT
16 TO TAKE POSSESSION OF AND SELL THE VEHICLE IN ACCORDANCE WITH THE
17 PROVISIONS OF § 3-1406 OF THIS SUBTITLE.

18 (D) WITHIN 30 DAYS AFTER THE RECEIPT OF A NOTICE FROM A LIENHOLDER
19 UNDER SUBSECTION (C) OF THIS SECTION, THE FORFEITING AUTHORITY SHALL
20 RELEASE THE VEHICLE TO THE LIENHOLDER.

21 3-1408.

22 (A) IF THE VEHICLE IS SUBJECT TO A LIEN, THE SEIZING AGENCY OR THE
23 APPROPRIATE GOVERNING BODY MAY TAKE TITLE TO THE VEHICLE BY PAYING TO
24 ALL LIENHOLDERS, AT ANY TIME BEFORE THE SALE OF THE VEHICLE, THE
25 BALANCE OF ALL OBLIGATIONS SECURED BY THE VEHICLE. ON PAYMENT, THE
26 SEIZING AGENCY OR THE APPROPRIATE GOVERNING BODY:

27 (1) SHALL BE SUBROGATED TO ALL THE RIGHTS AND REMEDIES OF
28 THE LIENHOLDER SO PAID;

29 (2) MAY DEMAND PAYMENT FROM A DEBTOR OR SUE FOR
30 SATISFACTION; AND

31 (3) SHALL DEPOSIT ANY SUMS RECEIVED UNDER SUBSECTION (A)(2) OF
32 THIS SECTION IN ITS GENERAL FUND.

33 (B) (1) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT A
34 LIENHOLDER FROM EXERCISING THE LIENHOLDER'S RIGHTS UNDER APPLICABLE
35 LAW, INCLUDING THE RIGHT TO SELL A VEHICLE THAT HAS BEEN SEIZED UNDER
36 THIS SUBTITLE, IN THE EVENT OF A DEFAULT IN THE OBLIGATION GIVING RISE TO
37 THE LIEN.

38 (2) (I) A LIENHOLDER EXERCISING THE RIGHT TO SELL A VEHICLE
39 THAT HAS BEEN SEIZED UNDER THIS SUBTITLE SHALL NOTIFY THE FORFEITING
40 AUTHORITY IN WRITING OF THE LIENHOLDER'S INTENTION TO SELL THE VEHICLE.

10

1 (II) THE NOTICE SHALL BE ACCOMPANIED BY COPIES OF
2 DOCUMENTS GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER
3 OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT
4 AND THE REASONS FOR THE DEFAULT.

5 (III) ON REQUEST OF THE LIENHOLDER, THE VEHICLE SHALL BE
6 RELEASED TO THE LIENHOLDER.

7 (3) THE RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER
8 FOR THE SALE OF COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL
9 GOVERN THE REPOSSESSION AND SALE OF THE VEHICLE, EXCEPT THAT:

10 (I) THE LIENHOLDER MAY NOT BE OBLIGATED TO TAKE
11 POSSESSION OF THE VEHICLE PRIOR TO THE SALE;

12 (II) THE PROCEEDS OF THE SALE SHALL BE APPLIED FIRST TO ANY
13 COURT COSTS OF THE FORFEITURE PROCEEDING, THEN, AS PROVIDED BY LAW, FOR
14 DISTRIBUTION OF PROCEEDS OF A SALE BY THE LIENHOLDER; AND

15 (III) ANY PORTION OF THE PROCEEDS OF THE SALE THAT WOULD
16 BE PAID TO ANY OWNER UNDER THE APPLICABLE LAW RELATING TO DISTRIBUTION
17 OF PROCEEDS SHALL BE PAID TO THE SEIZING AGENCY AND SHALL BE PROPERTY
18 SUBJECT TO FORFEITURE. IF NO ORDER OF FORFEITURE IS ENTERED, THE STATE
19 SHALL REMIT TO THE OWNER THAT PORTION OF THE PROCEEDS OF THE SALE AND
20 ANY COSTS OF THE FORFEITURE PROCEEDINGS PAID FROM THOSE PROCEEDS OF
21 THE SALE.

22 (4) (I) IF THE INTEREST OF THE OWNER IN THE VEHICLE IS
23 REDEEMED, THE LIENHOLDER SHALL MAIL A NOTICE OF THE REDEMPTION TO THE
24 FORFEITING AUTHORITY WITHIN 10 DAYS AFTER THE REDEMPTION.

25 (II) IF THE VEHICLE HAS BEEN REPOSSESSED BY THE
26 LIENHOLDER, THE LIENHOLDER SHALL RETURN THE VEHICLE TO THE SEIZING
27 AGENCY WITHIN 21 DAYS AFTER THE REDEMPTION.

28 (III) THE SEIZING AGENCY AND THE FORFEITING AUTHORITY MAY
29 THEN PROCEED WITH THE FORFEITURE OF THE VEHICLE, AND ALL TIME
30 LIMITATIONS REQUIRED UNDER THIS SUBTITLE FOR NOTICE AND FILING OF THE
31 COMPLAINT SHALL RUN FROM THE DATE OF THE REDEMPTION OR PURCHASE OF
32 THE VEHICLE.

33 (C) (1) A FORFEITED VEHICLE SHALL BE TRANSFERRED TO THE
34 GOVERNING BODY AND TITLED, IN THE NAME OF THE GOVERNING BODY, SUBJECT
35 TO ALL LIENS ON THE VEHICLE, TITLE HAVING VESTED AS OF THE DATE OF THE
36 INCIDENT GIVING RISE TO FORFEITURE.

37 (2) THE FORFEITED VEHICLE SHALL BE USED OR DISPOSED OF
38 ACCORDING TO RULES AND REGULATIONS OF THE SEIZING AGENCY.

39 (D) TITLE TO ALL FORFEITED MONEY RECEIVED THROUGH THE SALE OF
40 FORFEITED VEHICLES SHALL BE TITLED IN THE APPROPRIATE GOVERNING BODY
41 AS OF THE DATE OF THE INCIDENT GIVING RISE TO FORFEITURE.

11

1 **Article 27 - Crimes and Punishments**

2 287C.

3 (A) A POLICE OFFICER MAY CHARGE A PERSON WITH A VIOLATION OF § 287
4 OF THIS ARTICLE, IF THE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT THE
5 PERSON HAS COMMITTED OR IS COMMITTING THE VIOLATION.

6 (B) A POLICE OFFICER WHO CHARGES A PERSON UNDER THIS SECTION MAY
7 ISSUE A WRITTEN CITATION TO THE PERSON CHARGED IF THE OFFICER HAS
8 DETERMINED THAT THE PERSON HAS NO:

9 (1) OUTSTANDING WARRANTS OF ARREST; AND

10 (2) PRIOR CRIMINAL CONVICTION IN THIS STATE.

11 (C) A CITATION ISSUED TO A PERSON UNDER THIS SECTION SHALL CONTAIN:

12 (1) A NOTICE TO APPEAR IN COURT;

13 (2) THE NAME AND ADDRESS OF THE PERSON;

14 (3) THE VIOLATION CHARGED;

15 (4) UNLESS OTHERWISE TO BE DETERMINED BY THE COURT, THE TIME
16 AND LOCATION THAT THE PERSON SHALL APPEAR IN COURT;

17 (5) A STATEMENT ACKNOWLEDGING RECEIPT OF THE CITATION, TO BE
18 SIGNED BY THE PERSON;

19 (6) ON THE SIDE OF THE CITATION TO BE SIGNED BY THE PERSON, A
20 CLEAR AND CONSPICUOUS STATEMENT THAT:

21 (I) THE SIGNING OF THE CITATION BY THE PERSON DOES NOT
22 CONSTITUTE AN ADMISSION OF GUILT; AND

23 (II) THE FAILURE TO SIGN MAY SUBJECT THE PERSON TO ARREST;
24 AND

25 (7) ANY OTHER NECESSARY INFORMATION.

26 (D) UNLESS THE PERSON CHARGED DEMANDS AN EARLIER HEARING, A TIME
27 SPECIFIED IN THE NOTICE TO APPEAR SHALL BE AT LEAST 5 DAYS AFTER THE
28 ALLEGED VIOLATION.

29 (E) A PLACE SPECIFIED IN THE NOTICE TO APPEAR SHALL BE BEFORE A
30 JUDGE OF THE DISTRICT COURT.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 1996.