
By: **Delegates Hutchins and Barkley**
Introduced and read first time: February 8, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances Violations - Seized Property - Summary**
3 **Forfeiture**

4 FOR the purpose of establishing a procedure by which a law enforcement unit in the
5 State that is authorized to investigate violations of the Controlled Dangerous
6 Substances law and that has seized property may seek the summary forfeiture
7 of the property; establishing the conditions under which a seizing authority may
8 petition the circuit court for summary forfeiture; specifying certain
9 requirements concerning the contents and time of filing of a certain petition;
10 requiring the court to order the posting of a certain notice under certain
11 conditions; requiring that the seizing authority or the court take certain action
12 under certain conditions after the posting of a certain notice; and generally
13 relating to the summary forfeiture of certain property.

14 BY repealing and reenacting, without amendments,
15 Article - Criminal Procedure
16 Section 12-101(a), (k), and (o)
17 Annotated Code of Maryland
18 (2001 Volume)

19 BY adding to
20 Article - Criminal Procedure
21 Section 12-301.1; and 12-3A-01 to be under the new subtitle "Subtitle 3A.
22 Summary Forfeiture"
23 Annotated Code of Maryland
24 (2001 Volume)

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

1

Article - Criminal Procedure

2 12-101.

3 (a) In this title the following words have the meanings indicated.

4 (k) (1) "Owner" means a person having a legal, equitable, or possessory
5 interest in property.

6 (2) "Owner" includes:

7 (i) a co-owner;

8 (ii) a life tenant;

9 (iii) a remainderman to a life tenancy in real property;

10 (iv) a holder of an inchoate interest in real property; and

11 (v) a bona fide purchaser for value.

12 (o) "Seizing authority" means a law enforcement unit in the State that is
13 authorized to investigate violations of the Controlled Dangerous Substances law and
14 that has seized property under this title.

15 12-301.1.

16 NOTWITHSTANDING ANY PROVISION OF THIS SUBTITLE, A SEIZING AUTHORITY
17 MAY SEEK THE SUMMARY FORFEITURE OF PROPERTY IN ACCORDANCE WITH
18 SUBTITLE 3A OF THIS TITLE.

19 SUBTITLE 3A. SUMMARY FORFEITURE.

20 12-3A-01.

21 (A) A SEIZING AUTHORITY MAY PETITION THE CIRCUIT COURT FOR A
22 SUMMARY FORFEITURE OF SEIZED PROPERTY IF:23 (1) THE OWNER IS A FUGITIVE FROM JUSTICE OR HAS ABSCONDED
24 FROM THE JURISDICTION WHERE CRIMINAL CHARGES ARE PENDING AGAINST THE
25 OWNER; OR26 (2) (I) EXCEPT FOR PROCEEDINGS ABOUT MONEY, THE SEIZING
27 AUTHORITY HAS NOT FILED A COMPLAINT SEEKING FORFEITURE WITHIN THE TIME
28 LIMITS SET UNDER § 12-304 OF THIS TITLE; AND29 (II) THE OWNER HAS NOT REQUESTED THE SEIZING AUTHORITY TO
30 RETURN THE SEIZED PROPERTY.31 (B) A PETITION FOR SUMMARY FORFEITURE MAY BE FILED 1 YEAR AFTER THE
32 EARLIER OF:

1 (1) THE FINAL DISPOSITION OF CRIMINAL PROCEEDINGS INVOLVING
2 THE OWNER;

3 (2) A DECLINATION OF PROSECUTION BY THE STATE'S ATTORNEY; OR

4 (3) THE ISSUANCE OF AN UNSERVED WARRANT OR A BENCH WARRANT
5 FOR THE ARREST OF THE OWNER.

6 (C) A PETITION FOR SUMMARY FORFEITURE SHALL CONTAIN THE
7 INFORMATION SPECIFIED IN § 12-305(A) OF THIS TITLE AND A DESCRIPTION OF THE
8 EFFORTS MADE TO NOTIFY THE OWNER OR TO TAKE THE OWNER INTO CUSTODY.

9 (D) IF THE COURT FINDS THAT THE EFFORTS OF THE SEIZING AUTHORITY
10 ARE ADEQUATE, THE COURT SHALL ORDER THAT A NOTICE OF SUMMARY
11 FORFEITURE BE POSTED BY THE SHERIFF:

12 (1) ON THE DOOR OF THE COURTHOUSE WHERE THE ACTION IS
13 PENDING OR ON A BULLETIN BOARD WITHIN THE IMMEDIATE VICINITY OF THE
14 DOOR; AND

15 (2) IN A CONSPICUOUS PLACE ON THE LAND, IF FORFEITURE OF REAL
16 PROPERTY IS SOUGHT.

17 (E) WITHIN 30 DAYS AFTER THE POSTING REQUIRED IN SUBSECTION (D) OF
18 THIS SECTION:

19 (1) IF THE OWNER REQUESTS THE SEIZING AUTHORITY TO RETURN THE
20 SEIZED PROPERTY, THE SEIZING AUTHORITY WILL RETURN THE PROPERTY TO THE
21 OWNER; BUT

22 (2) IF THE OWNER DOES NOT ASK FOR THE RETURN OF THE PROPERTY,
23 THE COURT SHALL ORDER THAT THE PROPERTY BE FORFEITED TO THE SEIZING
24 AUTHORITY.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2002.