

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

§ 2150. Forfeitures.

(a) The following shall be subject to forfeiture to the Commonwealth and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this title.

(2) All raw materials, products, land, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this title.

(3) All property which is used, or intended for use, as a container or warehouse for property described in subsections (a)(1) or (a)(2) of this section.

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in subsections (a)(1) or (a)(2) of this section, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this title; and

(ii) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state, territory, or the Commonwealth.

(5) All books, records, and research, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this title.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this title, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this title, except that no property may be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) Notwithstanding the other provisions of subsection (a) of this section, land and the physical improvements thereon used for the manufacture, propagation, cultivation, or harvesting of marijuana shall not be subject to forfeiture.

(8) The accused shall be entitled to a trial by jury in accordance with the provisions of title 7, division 3, chapter 1 of this code [7 CMC § 3101 et seq.]

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in all cases in which the value of property subject to forfeiture under this subsection exceeds \$2,000.

(b) Any property subject to forfeiture to the Commonwealth under this title may be seized by the Attorney General upon process issued by any court of the Commonwealth having jurisdiction over the property, except that seizure without that process may be made when:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the Commonwealth in a criminal injunction or forfeiture proceeding under this title;

(3) The Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The Attorney General has probable cause to believe that the property has been used or is intended to be used in violation of this title.

In the event of seizure pursuant to subsections (b)(3) or (b)(4) of this section, proceedings under subsection (d) of this section shall be instituted promptly.

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this title, the Attorney General may:

(1) Place the property under seal;

(2) Remove the property to a place designated by the Attorney General; or

(3) Require that the supply division of the Commonwealth government take custody of the property and remove it to an appropriate location for disposition in accordance with the law.

(d) The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs law; the disposition of property or the proceeds from its sale; the remission or mitigation of forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title insofar as applicable and not inconsistent with these provisions; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this title by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Whenever property is forfeited under this title the Attorney General may:

(1) Retain the property for official use;

(2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

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(3) Require that the supply division take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to any Commonwealth or federal agency for disposition (including delivery for medical or scientific use to any federal agency under regulations of the Attorney General).

The proceeds from any sale under subsection (e)(2) of this section and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the Commonwealth for deposit in the General Fund of the Commonwealth any moneys and proceeds remaining after payment of those expenses.

(f) All controlled substances that are possessed, transferred, sold, or offered for sale in violation of the provisions of this title are deemed contraband and may be seized and summarily forfeited to the Commonwealth. Similarly, all controlled substances which are seized or come into the possession of the Commonwealth the owners of which are unknown shall be deemed contraband and summarily forfeited to the Commonwealth.

(g)(1) All species of plants from which controlled substances may be derived which have been planted or cultivated in violation of this title or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the Commonwealth.

(2) The failure, upon demand by the Attorney General or a duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that the person is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or a duly authorized agent, may enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

Source: PL 3-71, § 1 (§ 1117); amended by PL 3-72, § 2 (§ 1102); PL 6-44, §§ 2, 3.

Commission Comment: PL 6-44 added subsections (a)(7) and (a)(8) of this section. Apart from subsection (a)(7), which was given retroactive effect to February 1, 1988 (see PL 6-44, § 4), PL 6-44 took effect February 1, 1990.