



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4505 (Substitute S-1 as reported)
Sponsor: Representative Peter J. Lucido
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend Article 7 (Controlled Substances) of the Public Health Code to provide that a plaintiff in a forfeiture action under the article would have the burden of proving a violation of the article by clear and convincing evidence.

The amendment would apply to forfeiture proceedings begun on or after the bill's effective date. The bill would take effect 90 days after its enactment.

(Article 7 provides for the seizure and forfeiture of specified property, such as a controlled substance that has been manufactured, distributed, used, possessed, or acquired in violation of the article; and a conveyance, including an aircraft, vehicle, or vessel used to transport that property, for the purpose of sale and receipt. Property may be seized upon process issued by a circuit court or without process under certain circumstances (e.g., incident to an arrest). When property is seized, forfeiture proceedings must be instituted promptly. If the property is seized without process and its value does not exceed \$50,000, however, the property may be declared forfeited if no one files a claim for it.

When property is forfeited, the local unit of government that seized it, or the State if the property was seized by or is in the custody of the State, may dispose of the property in certain ways, including selling property that is not required by law to be destroyed and is not harmful to the public. The proceeds of a sale must be deposited with the treasurer of the local unit or the State and used to pay expenses of the forfeiture and sale. The balance must be used for law enforcement purposes.)

MCL 333.7521

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could potentially have a fiscal impact, in an amount that cannot be determined at this time, on law enforcement agencies by raising the standard of proof under which assets can be forfeited to those agencies. This could result in a reduction in the amount of assets forfeited to the Department of State Police and local law enforcement agencies. In addition, the Attorney General and local prosecutors could incur increased costs, also of an undetermined amount, due to the higher standard of proof (and thus increased prosecutorial effort) required in cases in which asset forfeiture is an issue.

Date Completed: 8-20-15

Fiscal Analyst: Bruce Baker