

EXEMPT CERTAIN SEIZED PROPERTY FROM CERTAIN FORFEITURE PROCEEDINGS

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Senate Bill 761 (S-1) as passed by the Senate
Sponsor: Sen. Curtis VanderWall
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 12-1-20

SUMMARY:

Senate Bill 761 would amend the Public Health Code to exempt certain property from forfeiture proceedings if the property is seized by law enforcement officers appointed by a Public Airport Authority or a Regional Airport Authority.

2019 PAs 7 and 8 respectively added sections 7521a and 7523a to the Public Health Code, pertaining to civil asset forfeiture.¹

Section 7521a generally prohibits property seized for a violation of Article 7 (Controlled Substances) of the code, as provided in section 7522, from being subject to forfeiture unless a criminal proceeding involving or relating to the property has been completed and the defendant either is convicted of or pleads guilty to a controlled substance violation under Article 7. However, those provisions apply only to a forfeiture proceeding in which the aggregate net equity value of the property and currency seized is \$50,000 or less, excluding the value of contraband.

Section 7523a specifies that a civil forfeiture action must be stayed until the applicable criminal proceedings are over if the provisions of section 7521a apply, the seized property is subject to forfeiture under section 7521, and a person has filed a claim under section 7523.

Senate Bill 761 would amend sections 7521a and 7523a to provide that the required forfeiture proceedings do not apply when the aggregate fair market value of the property and currency seized is less than \$10,000, excluding the value of contraband, and is initiated in connection with the seizure of property by law enforcement officers appointed under the Aeronautics Code by a public airport authority (i.e., the Wayne County Airport Authority) or a regional airport authority (i.e., the Gerald R. Ford International Airport).

MCL 333.7521a and 333.7523a

¹ See <http://legislature.mi.gov/doc.aspx?2019-HB-4001>

BACKGROUND:

Article 7 of the Public Health Code prohibits certain activities, including the manufacture, delivery, and possession of controlled substances, and establishes penalties for violations. Under section 7522, certain property involved in drug crimes may be seized with a warrant, or without a warrant under certain circumstances such as incident to a lawful arrest. The types of property subject to forfeiture are listed in section 7521. Besides obvious objects such as the illegal drugs and associated paraphernalia and books and records (including formulas) related to drug offenses, vehicles such as cars, boats, and planes can be seized and forfeited if used to commit or facilitate a drug violation. Anything of value, including cash, may also be seized and subject to forfeiture if used or intended to be used to facilitate a violation or if furnished or intended to be furnished in exchange for a controlled substance, imitation controlled substance, or other drug in violation of Article 7 and traceable to the exchange.

Section 7524 allows the state or the local unit of government that seized the property to retain it for official use or sell any property that is not required by law to be destroyed and that is not harmful to the public. The proceeds, and any money or other things of value, must be deposited with the state treasurer if the state was the seizing entity or with the appropriate treasurer having budgetary authority of a local seizing entity, and must be disposed of as specified: to cover, for instance, expenses related to the maintenance of the property while in custody or costs associated with the sale of the property, among other things. Lights for plant growth or scales that were forfeited may be donated to elementary or secondary schools or colleges or universities for educational purposes.

FISCAL IMPACT:

Senate Bill 761 would have an indeterminate fiscal impact on public airport authorities and regional airport authorities, though revenues resulting from asset forfeitures in controlled substances cases could increase under the bill, since asset forfeiture would be allowed in an increased number of cases. The increase in revenue would depend on several factors and the amount of the projected increase is presently indeterminate.

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.