

1 **Senate Bill No. 643**

2 (By Senator Palumbo)

3 _____

4

5 [Introduced February 17, 2012; referred to the Committee on the

6 Judiciary.]

7 _____

8

9

10 A BILL to amend the Code of West Virginia, 1931, as amended, by

11 adding thereto a new section, designated §60A-7-705a, relating

12 to the West Virginia Contraband Forfeiture Act; revising

13 procedures for administrative forfeiture of certain types of

14 property involved in the trafficking of controlled substances;

15 establishing time frames; and providing for notice.

16 *Be it enacted by the Legislature of West Virginia:*

17 That the Code of West Virginia, 1931, as amended, be amended

18 by adding thereto a new section, designated §60A-7-705a, to read as

19 follows:

20 **ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.**

21 **§60A-7-705a. Additional procedures for forfeiture.**

22 (a) Notwithstanding the provisions of section 705 of this

23 article, forfeitable moneys, securities, other negotiable

24 instruments, conveyances and other personal property are subject to

1 administrative forfeiture by the prosecuting attorney of a county
2 or duly appointed special prosecutor.

3 (b) An administrative forfeiture notice shall be provided by
4 the prosecuting attorney within twenty days after the seizure of
5 the property in question. The notice shall contain the following:

6 (1) A description of the property seized;

7 (2) A statement as to who is responsible for the seizure;

8 (3) A statement of the time and place of seizure;

9 (4) The identity of the owner or owners of the property, if
10 known; and

11 (5) The identity of the person or persons in possession of the
12 property at the time seized.

13 (c) The administrative forfeiture notice shall be provided to
14 the possessor and the owner or owners of the seized property, if
15 known, at their last known address by certified mail, return
16 receipt requested.

17 (d) If no owner or possessor can be located with diligent
18 effort and if the notice, provided in subsection (c) of this
19 section to the last known address of any such person, is returned
20 unclaimed or refused, then no further notice is required.

21 (e) The administrative forfeiture notice shall include a
22 statement substantially as follows:

23 "To any claimant to the within described property, the
24 property is subject to administrative forfeiture unless you provide

1 a written notice, within thirty days of receipt of this notice,
2 that you wish to contest this forfeiture. If you fail to provide
3 a notice to the prosecuting attorney, you will immediately and
4 forever lose all right, claim, title and interest to the subject
5 property, and the property will be disposed of according to law.”

6 (f) If, after thirty days of the delivery of notice from the
7 prosecuting attorney as provided in subsections (c), (d), and (e)
8 of this section, no notice is received from any person indicating
9 a desire to contest the administrative forfeiture, all right, title
10 and interest to the subject property shall immediately vest in the
11 state, and shall be disposed of in the same manner as in a civil
12 forfeiture, according to the provisions of sections 706 and 707 of
13 this article.

14 (g) If notice is received from any person, within the required
15 period of time, indicating a desire to contest the administrative
16 forfeiture, then no forfeiture may be obtained except through a
17 civil forfeiture proceeding under section 705 of this article.

NOTE: The purpose of this bill is to provide additional
procedures for forfeiture of contraband property involved in the
trafficking of controlled substances by the prosecuting attorney of
a county or duly appointed special prosecutor.

§60A-7-705a is new; therefore, strike-throughs and
underscoring have been omitted.