

1 **H. B. 4595**

2
3 (By Delegate Marcum)

4 [Introduced February 17, 2014; referred to the
5 Committee on the Judiciary.]

6
7
8
9
10 A BILL to amend and reenact §60A-7-705a of the Code of West
11 Virginia, 1931, as amended, relating to forfeiture of
12 contraband moneys; providing that a county prosecuting
13 attorney may serve administrative forfeiture notice by
14 certified mail; and retroactive application.

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

16 That the Code of West Virginia, 1931, as amended, be amended
17 and reenacted to read as follows:

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

19 **§60A-7-705a. Additional procedures for forfeiture.**

20 (a) Notwithstanding the provisions of section seven hundred
21 five of this article, forfeitable moneys are subject to
22 administrative forfeiture by the prosecuting attorney of a county
23 or duly appointed special prosecutor.

1 (b) An administrative forfeiture notice shall be provided by
2 the prosecuting attorney after the seizure of the money in
3 question. The notice shall contain the following:

4 (1) A description of the money seized;

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

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

7 (4) The identity of the owner or owners of the money, if
8 known; and

9 (5) The identity of the person or persons in possession of the
10 money at the time seized.

11 (c) ~~At the time of filing or as soon as practicable thereafter~~
12 As soon as practicable following the seizure of forfeitable moneys,
13 a copy of the ~~petition for forfeiture~~ administrative forfeiture
14 notice shall be served upon the owner or owners of the seized
15 money. Should diligent efforts fail to disclose the lawful owner
16 or owners of the seized money, a copy of the petition for
17 forfeiture shall be served upon any person who was in possession or
18 alleged to be in possession of the money at the time of seizure,
19 where such person's identity is known. The above service shall be
20 made pursuant to the provisions of the West Virginia Rules of Civil
21 Procedure, or by certified mail from the prosecuting attorney.

22 (d) The administrative forfeiture notice shall include a
23 statement substantially as follows: To any claimant: "The
24 confiscated money is subject to administrative forfeiture unless

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

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

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

18 (g) Notwithstanding any provision of this code to the
19 contrary, the provisions of this section shall apply retroactively
20 to forfeitable moneys seized prior to the enactment of this
21 section, and the administrative notice may be provided as soon as
22 practicable following enactment of this subsection.

NOTE: The purpose of this bill is to provide that in seizures of contraband moneys a county prosecuting attorney may serve administrative forfeiture notice by certified mail. This provision will apply retroactively.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.