1 H. B. 2521 2 3 (By Delegates Skaff and Marcum) [Introduced February 18, 2013; referred to the 4 5 Committee on the Judiciary.] 6 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: 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. (a) Notwithstanding the provisions of section seven hundred 2.2 23 five of this article, forfeitable moneys, securities, other

- 1 negotiable instruments, conveyances and other personal property are
- 2 subject to administrative forfeiture by the prosecuting attorney of
- 3 a county or duly appointed special prosecutor.
- 4 (b) An administrative forfeiture notice shall be provided by
- 5 the prosecuting attorney after the seizure of the property in
- 6 question. The notice shall contain the following:
- 7 (1) A description of the property seized;
- 8 (2) A statement as to who is responsible for the seizure;
- 9 (3) A statement of the time and place of seizure;
- 10 (4) The identity of the owner or owners of the property, if
- 11 known; and
- 12 <u>(5) The identity of the person or persons in possession of the</u>
- 13 property at the time seized.
- 14 (c) The administrative forfeiture notice shall be provided to
- 15 the possessor and the owner or owners of the seized property, if
- 16 known, at their last known address by certified mail, return
- 17 receipt requested.
- 18 (d) If no owner or possessor can be located with diligent
- 19 effort and if the notice, provided in subsection (c) of this
- 20 section to the last known address of any such person, is returned
- 21 unclaimed or refused, then no further notice is required.
- 22 (e) The administrative forfeiture notice shall include a
- 23 statement substantially as follows: "To any claimant to the within
- 24 described property: "The property is subject to administrative

- 1 forfeiture unless you provide a written notice, within thirty days
- 2 of receipt of this notice, that you wish to contest this
- 3 forfeiture. If you fail to provide a notice to the prosecuting
- 4 attorney, you will immediately and forever lose all right, claim,
- 5 title and interest to the subject property, and the property will
- 6 be disposed of according to law."
- 7 (f) If, after thirty days of the delivery of notice from the
- 8 prosecuting attorney as provided in subsections (c), (d) and (e) of
- 9 this section, no notice is received from any person indicating a
- 10 desire to contest the administrative forfeiture, all right, title
- 11 and interest to the subject property shall immediately vest in the
- 12 state, and shall be disposed of in the same manner as in a civil
- 13 forfeiture.
- 14 (q) 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 seven hundred five of
- 18 this article.

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

This section is new; therefore, it has been completely underscored.