

















FORFEITURE REFORM AGREEMENT

HF75 (Moller and SF 444 (Johnson)

1. REFORM DWI FORFEITURE LAW

- a. Vehicle forfeiture restricted to two categories:
 - i. **Category 1**. Third (or more) in 10 years (two or more prior DWI convictions or alcohol-related licensure revocations/suspensions).
 - 1. Exception: owner may regain possession of the vehicle with ignition interlock (no bond required).
 - ii. **Category 2**. Felony DWI (four prior DWI convictions or alcohol-related licensure revocations/suspensions) subject to civil forfeiture
 - 1. Exception: interlock exception available to individuals participating in treatment court.
- b. Enhanced protection for innocent owners: the legislation provides for a streamlined process for innocent owners to request and obtain return of vehicle. Filing burden shifts to the prosecuting authority, shorter timeframe for a hearing, consistent with *Olson v. 1999 Lexus* (2019).
- c. No storage fees to be charged on vehicles after challenge is made unless innocent owner or owner fails to secure vehicle in a reasonable amount of time once released. Owner still responsible for tow fee.
- d. Permissible use of forfeiture proceeds clarified.
- e. Immunity provision for law enforcement that releases vehicle pursuant to the statute.

2. CHANGES TO CONTROLLED SUBSTANCE FORFEITURES

- a. Set threshold for seizure at \$1,500 or higher for currency, unless there is probable cause to believe that the money was exchanged for the purchase of a controlled substance.
- b. Narrows property subject to forfeiture to that which is an instrument of or represents the proceeds of a controlled substance offense.
- c. Restricts vehicle forfeiture to those used in the transportation or exchange of controlled substances intended for distribution or sale.
- d. Enhanced protection for innocent owners: the legislation provides for a streamlined process for innocent owners to request and obtain return of vehicle. Filing burden shifts to the prosecuting authority, shorter timeframe for a hearing.
- e. Provide for the return of law enforcement buy money.
- f. Permissible use of forfeiture proceeds clarified.

3. CHANGES TO FEDERAL SHARING PROGRAM

a. Law enforcement agencies shall not transfer property to the federal government if the transfer would circumvent state law.

4. CHANGES TO TRANSPARENCY/REPORTING

- a. Additional agency reporting requirements by the Office of the State Auditor including:
 - i. Details of the forfeiture resolution
 - ii. Use of forfeiture funds and property retained by law enforcement
 - iii. Receipt and expenditures of any funds derived from the Federal Sharing Program (adoptions and equitable sharing)
- b. The Office of the State Auditor may audit forfeiture receipts and expenditures by local municipalities.

5. EFFICACY STUDY

a. Report by the Office of the Legislature Auditor on the efficacy of the forfeiture changes due to the legislature by January 15, 2024.