



## 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.