

House Research Act Summary

CHAPTER: 466

SESSION: 2000 Regular Session

TOPIC: Forfeiture

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Analyst: Emily F. Shapiro, 651-296-5041

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Overview

This act makes several changes to forfeiture laws relating to violations of natural resources laws and DWI laws. It provides an administrative forfeiture process for seizure of firearms and other property used to commit certain violations of the game and fish laws. It also amends the DWI forfeiture law by removing the current requirement that judicial determination of forfeiture of a motor vehicle used to commit certain DWI offenses occur at the same time as judicial review of a license revocation. Additionally, it creates an alternative sale process when a vehicle forfeited under the DWI law is encumbered by a bona fide security interest or lease and the financial institution chooses to dispose of the vehicle under the sale provisions of the Uniform Commercial Code.

Section

- 1 Seizure and administrative forfeiture of certain firearms and abandoned property.** Requires enforcement officers (*i.e.* conservation officers, game refuge managers, etc.) to seize: (1) firearms possessed in violation of state or federal law or court order; and (2) property described in Minnesota Statutes, section 97A.221, subdivision 1 (items used to illegally take or transport wild animals such as bows and arrows, nets, boats, lines, poles, and fishing rods and tackle, etc.), where no owner can be determined. Requires the enforcement officer to serve notice of the seizure and intent to forfeit the property on any known owners and persons possessing it. Provides for administrative forfeiture. The forfeiture becomes final if a hearing is not requested within 45 days after seizure. Provides that this provision is in addition to other remedies under state and federal law and that forfeited property may be disposed of as contraband.
- 2 Authority to issue.** Expands the authority of conservation officers, sheriffs, and deputies to issue a civil trespass citation to persons in violation of section 84.90 (trespass by use of a recreational motor vehicle).
- 3 Administrative forfeiture procedure.** Changes the procedural requirements that apply to

forfeiture of a motor vehicle used to commit certain DWI offenses. Current law requires that judicial determinations of forfeiture be conducted at the same time as any judicial review of the person's implied consent license revocation. This section removes the mandatory requirement and allows the two proceedings to take place at the same time at the option of the prosecuting authority. Also provides that if the forfeiture hearing does not occur at the same time as the implied consent hearing, it must be held at the earliest practicable date.

- 4 **Sale of forfeited vehicle by secured party.** Permits a financial institution with a valid security interest in or lease covering the vehicle to dispose of the vehicle in a commercially reasonable manner under the Uniform Commercial Code. This foreclosure process takes the place of a law enforcement agency forfeiture sale, the usual process for disposition of a forfeited vehicle. If a financial institution chooses to dispose of the vehicle in this manner, it must notify the appropriate law enforcement agency of its intentions within 30 days of receiving the forfeiture notice.

Requires the appropriate agency to release the vehicle to the financial institution after the financial institution presents proof of its valid security interest or lease agreement. The financial institution must agree not to sell the vehicle to a member of the violator's household unless the violator is not convicted of the offense on which the forfeiture is based.

Also requires the financial institution to reimburse the appropriate law enforcement agency for its seizure, storage, and forfeiture costs from the proceeds of its sale. If any proceeds remains after the financial institution has made this reimbursement and has satisfied its storage costs, sale expenses and lien, the remainder must be forwarded to the state treasury for deposit in the appropriate fund under Minn. Stat. § 169.1217, subd. 9.

- 5 **Vehicle forfeiture for fleeing a peace officer.** Amends the Criminal Code's forfeiture provision relating to fleeing a peace officer in a motor vehicle. Current law requires that if the vehicle is seized before a forfeiture is ordered, a hearing must be held within 96 hours of the seizure and notice of the hearing must be given to the registered owner within 48 hours of the seizure. This section provides that these requirements do not apply to off-road recreational vehicles or motorboats.

- 6 **Assessing gross violations; report.** Requires the Commissioner of Natural Resources to review and assess gross violations of taking game and fish resources. Requires a report to the legislature on increased penalties for gross violations.

- 7 **Effective date.** May 16, 2000.