

HOUSE RESEARCH

Bill Summary

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Overview

This bill shifts the burden of proof to the prosecutor in innocent owner cases involving the following forfeiture actions: off-highway vehicles, DWI, designated offenses, controlled substance offenses, fleeing offenses, and prostitution offenses. It also allows an innocent owner to reclaim a vehicle only if equipped with an ignition interlock device.

Section

- 1, 2, 3, 9, 10, 11, 12,13** **Presumptions; limitations on forfeiture.** Strikes language regarding innocent owner provisions found in the following forfeiture statutes: off-highway vehicles, DWI, designated offenses, controlled substance offenses, fleeing offenses, and prostitution offenses. These provisions are modified and consolidated under sections 5 and 6.
- 4** **Definitions.** Defines “willfully ignorant” as intentionally avoiding knowledge of a crime by failing to make a reasonable inquiry about suspected wrongdoing despite being aware of its high probability. (See §§ 5 & 6.)
- 5** **Limitations and defenses to forfeiture; ownership at time of the crime.** Modifies current limitations and defenses to forfeiture actions and consolidates the new standards in sections 5 and 6.

Provides that property is not presumed subject to forfeiture if a claimant presents prima facie evidence that the claimant: (1) had full or joint ownership in the property and (2) is not the person accused or convicted of the related crime (i.e., an innocent owner), unless the prosecutor meets its burden under paragraph (c).

Section

Paragraph (c) provides that property is subject to forfeiture if the prosecutor proves by a preponderance of the evidence that the claimant is not an innocent owner – the claimant (1) had actual knowledge of, or was willfully ignorant to, the crime, or (2) consented, or was privy to the crime.

Notwithstanding paragraph (c), the property is not subject to forfeiture if the claimant demonstrates by a preponderance of the evidence that the claimant took reasonable steps to prohibit, abate, or terminate the illegal use of the property, including immediately notifying law enforcement, revoking or attempting to revoke permission to use property, or taking reasonable steps in consultation with law enforcement to discourage or prevent unlawful use.

Defines “claimant” as: an owner, lessor, secured party, common carrier, or good faith purchaser for value.

- 6** **Limitations and defenses; ownership acquired after crime.** Creates new standards similar to those in section 5 for property acquired *after* the crime for a good faith purchaser.
- 7** **Return of property; fees and sanctions.** Provides that if property is found not subject to forfeiture under section 5 or 6, the property must be returned to the owner, as well as filing fees. If the court finds that a DWI offender would have access to the vehicle, the court shall order the owner to install an ignition interlock device (not to exceed one year). Makes it a misdemeanor to tamper with or circumvent an ignition interlock device.
- 8** **Exemption; homestead property.** Codifies and extends the *Torgelson* exemption for homestead property in controlled substance and designated offense forfeitures.
- 14** **Construction of term.** Directs the court to construe the term “willfully ignorant” as synonymous with “willfully blind” as used in federal forfeiture law.