

SENATE BILL No. 263

March 6, 2003, Introduced by Senators LELAND, SCHAUER, BERNERO, EMERSON, CHERRY, JACOBS, CLARK-COLEMAN, THOMAS, PATTERSON, CASSIS, GARCIA, TOY, GOSCHKA, CLARKE, OLSHOVE and BRATER and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7523 (MCL 333.7523), as amended by 1990 PA
336.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7523. (1) If property is seized pursuant to section
2 7522, forfeiture proceedings shall be instituted promptly. If
3 the property is seized without process as provided under
4 section 7522, and the total value of the property seized does not
5 exceed \$50,000.00, the following procedure shall be used:

6 (a) The local unit of government that seized the property —
7 or, if the property was seized by the state, the state shall
8 notify the owner of the property that the property has been
9 seized — and that the local unit of government or, if
10 applicable, the state intends to forfeit and dispose of the

1 property by delivering a written notice to the owner of the
2 property or by sending the notice to the owner by certified
3 mail. If the name and address of the owner are not reasonably
4 ascertainable, or delivery of the notice cannot be reasonably
5 accomplished, the notice shall be published in a newspaper of
6 general circulation in the county in which the property was
7 seized, for 10 successive publishing days.

8 (b) Unless all criminal proceedings involving or relating to
9 the property have been completed, the seizing agency shall
10 immediately notify the prosecuting attorney for the county in
11 which the property was seized or, if the attorney general is
12 actively handling a case involving or relating to the property,
13 the attorney general of the seizure of the property and the
14 intention to forfeit and dispose of the property.

15 (c) Any person claiming an interest in property which is the
16 subject of a notice under subdivision (a) may, within 20 days
17 after receipt of the notice or of the date of the first
18 publication of the notice, file a written claim signed by the
19 claimant with the local unit of government or the state
20 expressing his or her interest in the property. Upon the filing
21 of the claim, and the giving of a bond to the local unit of
22 government or the state in the amount of 10% of the value of the
23 claimed property, but not less than \$250.00 or greater than
24 \$5,000.00, with sureties approved by the local unit of government
25 or the state conditioned that if the property is ordered
26 forfeited by the court the obligor shall pay all costs and
27 expenses of the forfeiture proceedings, ~~—The~~ **the** local unit

1 of government or, if applicable, the state shall transmit the
2 claim and bond with a list and description of the property seized
3 to the attorney general, the prosecuting attorney for the county,
4 or the city or township attorney for the local unit of government
5 in which the seizure was made. The attorney general, the
6 prosecuting attorney, or the city or township attorney shall
7 promptly institute forfeiture proceedings after the expiration of
8 the 20-day period. However, unless all criminal proceedings
9 involving or relating to the property have been completed, a city
10 or township attorney shall not institute forfeiture proceedings
11 without the consent of the prosecuting attorney or, if the
12 attorney general is actively handling a case involving or
13 relating to the property, the attorney general.

14 (d) If no claim is filed or bond given within the 20-day
15 period as described in subdivision (c), the local unit of
16 government or the state shall declare the property forfeited and
17 shall dispose of the property as provided under section 7524.
18 However, unless all criminal proceedings involving or relating to
19 the property have been completed, the local unit of government or
20 the state shall not dispose of the property pursuant to this
21 subdivision without the written consent of the prosecuting
22 attorney or, if the attorney general is actively handling a case
23 involving or relating to the property, the attorney general.

24 (2) Property taken or detained under this article or pursuant
25 to **former** section 17766a shall not be subject to an action to
26 recover personal property, but is deemed to be in the custody of
27 the seizing agency subject only to this section or an order and

1 judgment of the court having jurisdiction over the forfeiture
2 proceedings. When property is seized under this article or
3 pursuant to **former** section 17766a, the seizing agency may do any
4 of the following:

5 (a) Place the property under seal.

6 (b) Remove the property to a place designated by the court.

7 (c) Require the administrator to take custody of the property
8 and remove it to an appropriate location for disposition in
9 accordance with law.

10 (3) Title to real property forfeited under this article or
11 pursuant to **former** section 17766a shall be determined by a court
12 of competent jurisdiction. A forfeiture of real property
13 encumbered by a bona fide security interest is subject to the
14 interest ~~of~~ **if** the secured party ~~who~~ neither had knowledge of
15 nor consented to the act or omission.

16 **(4) Section 2974 of the revised judicature act of 1961, 1961**
17 **PA 236, MCL 600.2974, applies to a motor vehicle that has been**
18 **seized under this article but not finally forfeited.**

19 Enacting section 1. This amendatory act does not take
20 effect unless Senate Bill No. 259

21 of the 92nd Legislature is enacted into
22 law.