

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7521 Property subject to forfeiture; burden of proof; "imitation controlled substance" defined.

Sec. 7521. (1) The following property is subject to forfeiture:

(a) A prescription form, controlled substance, an imitation controlled substance, a controlled substance analogue, or other drug that has been manufactured, distributed, dispensed, used, possessed, or acquired in violation of this article.

(b) A raw material, product, or equipment of any kind that is used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance, a controlled substance analogue, or other drug in violation of this article; or a raw material, product, or equipment of any kind that is intended for use in manufacturing, compounding, processing, delivering, importing, or exporting an imitation controlled substance in violation of section 7341.

(c) Property that is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) Except as provided in subparagraphs (i) to (iv), a conveyance, including an aircraft, vehicle, or vessel used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision (a) or (b):

(i) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article.

(ii) A conveyance is not subject to forfeiture by reason of any act or omission established by the owner of that conveyance to have been committed or omitted without the owner's knowledge or consent.

(iii) A conveyance is not subject to forfeiture for a violation of section 7403(2)(c) or (d), section 7404, or section 7341(4).

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission.

(e) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used, or intended for use, in violation of this article.

(f) Any thing of value that is furnished or intended to be furnished in exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article that is traceable to an exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article or that is used or intended to be used to facilitate any violation of this article including, but not limited to, money, negotiable instruments, or securities. To the extent of the interest of an owner, a thing of value is not subject to forfeiture under this subdivision by reason of any act or omission that is established by the owner of the item to have been committed or omitted without the owner's knowledge or consent. Any money that is found in close proximity to any property that is subject to forfeiture under subdivision (a), (b), (c), (d), or (e) is presumed to be subject to forfeiture under this subdivision. This presumption may be rebutted by clear and convincing evidence.

(g) Any other drug paraphernalia not described in subdivision (b) or (c).

(2) The plaintiff in a forfeiture action under this article has the burden of proving a violation of this article by clear and convincing evidence. This subsection applies to forfeiture proceedings commenced under this article on or after the effective date of the amendatory act that added this subsection.

(3) As used in this section, "imitation controlled substance" means that term as defined in section 7341.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1984, Act 347, Eff. Mar. 29, 1985;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 2000, Act 302, Eff. Jan. 1, 2001;—Am. 2001, Act 236, Eff. Jan. 6, 2003;—Am. 2015, Act 154, Eff. Jan. 18, 2016.

Compiler's note: Enacting section 2 of Act 236 of 2001 provides:

"Enacting section 2. Sections 7401, 7403, 7407, and 7521 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7407, and 333.7521, as amended by this amendatory act, take effect upon promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368