

1 DRAFT PREPARED BY COMMISSION ON PROSECUTION
2 COORDINATION
3 Date: June 25, 2019; revised July 11, 2019

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12 **A BILL**

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16 Be it enacted by the General Assembly of the State of South
17 Carolina:

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19 SECTION 1. Chapter 53, Title 44 of the 1976 Code is amended by
20 adding:

21

22 “Section 44-53-510. Any person who uses monies having a
23 collective value exceeding the minimum seizable value established
24 by the circuit solicitor but which must not be less than five hundred
25 dollars, property, or a conveyance, or monies in an amount of five
26 hundred dollars or more in a manner which would make the monies,
27 property, or conveyance, or monies subject to forfeiture as provided
28 for in Sections 44-53-520 or 44-53-530, except for innocent owners,
29 rental agencies, lienholders, and the like and pursuant to the
30 remedies and procedures as provided for in this article, is guilty of
31 a misdemeanor and upon conviction must be imprisoned for not
32 more than three years, or fined not more than five thousand dollars,
33 or both, in the discretion of the court. The penalties prescribed in
34 this section are cumulative and must be construed to be in addition
35 to any other penalty prescribed by any other provision of this article
36 relating to controlled substances or harmful or illegal drugs.”

37

38 SECTION 2. Section 44-53-520 of the 1976 Code is amended to
39 read:

40

41 (a) The following are subject to forfeiture: (A) Monies, Pproperty,
42 or conveyances and monies subject to forfeiture pursuant to this
chapter include:

[]

1 (1) all controlled substances which have been manufactured,
2 distributed, dispensed, or acquired in violation of this article;
3 (2) all raw materials, products, and equipment of any kind
4 which are used, or which have been positioned for use, in
5 manufacturing, producing, compounding, processing, delivering,
6 importing, or exporting any controlled substance in violation of this
7 article;
8 (3) all property which is used, or which has been positioned for
9 use, as a container for property described in items (1) or (2);
10 (4) all property, both real and personal, which in any manner is
11 knowingly used to facilitate production, manufacturing,
12 distribution, sale, importation, exportation, or trafficking in various
13 controlled substances as defined in this article;
14 (5) all books, records, and research products and materials,
15 including formulas, microfilm, tapes, and data which are used, or
16 which have been positioned for use, in violation of this article;
17 (6) all conveyances including, but not limited to, trailers,
18 aircraft, motor vehicles, and watergoing vessels which are used or
19 intended for use unlawfully to conceal, contain, or transport or
20 facilitate the unlawful concealment, possession, containment,
21 manufacture, or transportation of controlled substances and their
22 compounds, except as otherwise provided, must be forfeited to the
23 State. No motor vehicle may be forfeited to the State under this item
24 unless it is used, intended for use, or in any manner facilitates a
25 violation of this Chapter and probable cause exists for a charge of
26 distribution of narcotics, possession with intent to distribute
27 narcotics, or trafficking narcotics ~~Section 44-53-370(a), involving~~
28 ~~at least one pound or more of marijuana, one pound or more of~~
29 ~~hashish, more than four grains of opium, more than two grains of~~
30 ~~heroin, more than four grains of morphine, more than ten grains of~~
31 ~~cocaine, more than fifty micrograms of lysergic acid diethylamide~~
32 ~~(LSD) or its compounds, more than ten grains of crack, or more than~~
33 ~~one gram of ice or crank, as defined in Section 44-53-110, or unless~~
34 ~~it is used, intended for use, or in any manner facilitates a violation~~
35 ~~of Section 44-53-370(c) or fifteen tablets, capsules, dosage units, or~~
36 ~~the equivalent quantity of 3, 4-methylenedioxymethamphetamine~~
37 ~~(MDMA);~~
38 (7) all property including, but not limited to, monies, negotiable
39 instruments, or securities having a collective value exceeding the
40 with a minimum seizable collective value of established by the
41 circuit solicitor but which must not be less than five hundred dollars
42 or more;, or other things of value furnished or intended to be
43 furnished by any person in exchange for a controlled substance, ~~and~~

1 ~~all proceeds including, but not limited to, monies, and real and~~
2 ~~personal property traceable to any exchange. Probable cause for a~~
3 ~~charge of distribution of narcotics, possession with intent to~~
4 ~~distribute narcotics, or trafficking narcotics must exist for property~~
5 ~~seized to be subject to forfeiture under this item; however, a direct~~
6 ~~connection between the property seized and the illegal activity that~~
7 ~~renders the items forfeitable need not be shown in order to establish~~
8 ~~probable cause;~~

9 (8) all monies having a collective value exceeding the
10 minimum seizable value established by the circuit solicitor but
11 which must not be less than five hundred dollars in an amount of
12 five hundred dollars seized in close proximity to forfeitable
13 controlled substances, drug manufacturing, or distributing
14 paraphernalia, or in close proximity to forfeitable records of the
15 importation, manufacturing, or distribution of controlled substances
16 and all monies seized at the time of arrest or search involving
17 violation of this article. If the person from whom the monies were
18 taken can establish to the satisfaction of a court of competent
19 jurisdiction that the monies seized are not products of illegal acts,
20 the monies must be returned pursuant to court order. where the
21 relationship between the seized money and forfeitable property
22 under ~~in~~ this item is reasonably inferred. Probable cause for a
23 charge of distribution of narcotics, possession with intent to
24 distribute narcotics, or trafficking narcotics must exist for monies
25 seized to be subject to forfeiture under this item;

26 (9) all monies accepted by a person knowing of the commission
27 of an offense as part of an agreement or undertaking, express or
28 implied, to compound, conceal or withhold evidence of any property
29 subject to forfeiture under this section or any offense related to said
30 property agreement;

31 (10) all property constituting, or derived from, any proceeds,
32 including substitute assets, which the person obtained, directly or
33 indirectly, from a violation of this chapter; and

34 (11) all other items which in any manner are involved with or
35 tied to, or which have been positioned for involvement with or ties
36 to monies, property, and conveyances ~~and monies~~ subject to
37 forfeiture pursuant to this section.

38 (B) ~~(b)~~ Any property subject to forfeiture under this article;
39 Article 19 of Chapter 3, Title 16; or any other provision under Title
40 16 or Title 17 may be seized by the department or investigating
41 agency having authority upon warrant issued by any court having
42 jurisdiction over the property. Seizure without process may be made
43 if:

1 (1) the seizure is incident to an arrest or a search under a search
2 warrant or an inspection under an administrative inspection warrant;

3 (2) the property subject to seizure has been the subject of a prior
4 judgment in favor of the State in a criminal injunction or forfeiture
5 proceeding based upon this article; Article 19 of Chapter 3, Title 16;
6 or any other provision under Title 16 or Title 17;

7 (3) the department has probable cause to believe that the
8 property is directly or indirectly dangerous to health or safety; or

9 (4) the department or investigating agency has probable cause
10 to believe that the property was used or is intended to be used in
11 violation of this article; Article 19 of Chapter 3, Title 16; or any
12 other provision under Title 16 or Title 17.

13 ~~—(e) In the event of seizure pursuant to subsection (b), proceedings~~
14 ~~under Section 44-53-530 regarding forfeiture and disposition must~~
15 ~~be instituted within a reasonable time.~~

16 (C) ~~(d)~~ Any property taken or detained under this section; Section
17 16-3-2090; or any other provision under Title 16 or Title 17 is not
18 subject to replevin but is considered to be in the custody and
19 evidence location of the department making the seizure subject only
20 to the orders of the court having jurisdiction over the criminal
21 forfeiture proceedings. ~~Property described in Section 44-53-520(a)~~
22 ~~is forfeited and transferred to the government at the moment of~~
23 ~~illegal use. Seizure and forfeiture proceedings confirm the transfer.~~
24 Once monies, property, and conveyances ~~and monies~~ seized are
25 proven beyond a reasonable doubt to be subject to forfeiture, such
26 monies, property, and conveyances ~~and monies~~ are forfeited and
27 transferred to the government. The conviction of the defendant will
28 confirm the transfer.

29 (D) ~~(e)~~ Controlled substances listed in Schedule I and any other
30 property that is illegal itself or illegal to possess, excluding monies
31 for purposes of this section, that are possessed, transferred, sold, or
32 offered for sale in violation of this article are contraband and must
33 be seized and summarily forfeited to the State. Controlled
34 substances listed in Schedule I, which are seized or come into the
35 possession of the State, ~~the owners of which are unknown,~~ are
36 contraband and must be summarily forfeited to the State.

37 (E) ~~(f)~~ Species of plants from which controlled substances in
38 Schedules I and II may be derived which have been planted or
39 cultivated in violation of this article, or of which the owners or
40 cultivators are unknown, or which are wild growths, may be seized
41 and summarily forfeited to the State.

42 (F) ~~(g)~~ The failure, upon demand by the department having
43 authority to make the demand, of the person in occupancy or in

1 control of land or premises upon which the species of plants are
2 growing or being stored to produce an appropriate registration, or
3 proof that he is the holder thereof, constitutes authority for the
4 seizure and forfeiture of the plants.

5 ~~(G) (h)~~ For the purposes of this section, whenever the seizure of
6 any property subject to seizure is accomplished as a result of a joint
7 effort by more than one law enforcement agency, the law
8 enforcement agency initiating the investigation is considered to be
9 the agency making the seizure.

10 ~~(H) (i)~~ Law enforcement agencies seizing property under this
11 section shall take reasonable steps to maintain the property in their
12 evidence location. Equipment and conveyances seized must be
13 removed to an appropriate place for storage of the evidence. Any
14 monies seized must be deposited in an interest-bearing account
15 ~~pending final disposition by the court unless the seizing agency~~
16 ~~determines the monies to be of an evidential nature and provides for~~
17 ~~security in another manner in a financial institution in which~~
18 deposits are insured by an agency of the United States government
19 until action or final disposition by the court.

20 ~~(I)(1)~~ Forfeiture of seized monies, property, and conveyances ~~and~~
21 ~~monies upon consent of the defendant without an associated charge~~
22 is prohibited except where:

23 (a) defendant agrees to serve as a criminal informant and
24 signs an acknowledgement of forfeiture; or

25 (b) defendant has abandoned money and signs a statement of
26 abandonment that includes an acknowledgement of forfeiture.

27 (c) In the case of abandonment, probable cause must exist for
28 a charge of distribution of narcotics, possession with intent to
29 distribute narcotics, or trafficking narcotics.

30 (2) Upon a defendant's voluntary consent to forfeiture pursuant
31 to Subsection (I)(1), which also serves as confirmation of the
32 transfer, such monies, property, and conveyances ~~and monies~~ are
33 forfeited and transferred to the government.

34 ~~(J)(1) (j)~~ When monies, property, and conveyances ~~and monies~~ of
35 any value as defined in this section or Article 19 of Chapter 3, Title
36 16; or anything else of any value is seized, the law enforcement
37 agency making the seizure, ~~within ten days or a reasonable period~~
38 of time after the seizure, shall submit a report to the appropriate
39 prosecution agency. ~~must place physical property seized in the~~
40 evidence location of the department and monies seized in an
41 interest-bearing account in a financial institution in which deposits
42 are insured by an agency of the United States government.— The

1 department must submit an incident report to the appropriate
2 prosecution agency within ten calendar days.

3 (2) A warrant for real property seized must be issued upon a
4 finding of probable cause by the judge, and the judge shall
5 simultaneously issue a forfeiture lien against the real property which
6 must be filed with the Clerk of Court and the Register of Deeds for
7 the county in which the real property is located. A forfeiture lien
8 issued under this section shall be in the form approved by the
9 Judicial Branch.

10 (3) ~~(1)~~—The incident report shall provide the following
11 information with respect to the property seized:

- 12 (a) description;
- 13 (b) circumstances of seizure;
- 14 (c) present custodian and where the property is being stored
15 or its location;
- 16 (d) name of owner;
- 17 (e) name of lienholder, if any;
- 18 (f) seizing agency; and
- 19 (g) the type and quantity of the controlled substance
20 involved, if any.

21 (4) ~~(2)~~ If the property is a conveyance, the report shall include
22 the:

- 23 (a) make, model, serial number, and year of the conveyance;
- 24 (b) person in whose name the conveyance is registered; and
- 25 (c) name of any lienholders.

26 (5) ~~(3)~~—In addition to the report provided for in items ~~(1)~~ and
27 ~~(2)~~ (3) and (4), the law enforcement agency shall prepare for
28 dissemination to the public upon request a report providing the
29 following information:

- 30 (a) a description of the quantity and nature of the property
31 and money seized;
- 32 (b) the seizing agency;
- 33 (c) the type and quantity of the controlled substance
34 involved, if any;
- 35 (d) the make, model, and year of a conveyance; and
- 36 (e) the law enforcement agency responsible for the property
37 or conveyance seized.

38 (K) ~~(4)~~ Property or conveyances seized by a law enforcement
39 agency or department must not be used by officers for personal
40 purposes.

41
42 SECTION 3. Section 44-53-530 of the 1976 Code is amended to
43 read:

[]

1
2 (a) ~~Forfeiture of property defined in Section 44-53-520 must be~~
3 ~~accomplished by petition of the Attorney General or his designee or~~
4 ~~the circuit solicitor or his designee to the court of common pleas for~~
5 ~~the jurisdiction where the items were seized. The petition must be~~
6 ~~submitted to the court within a reasonable time period following~~
7 ~~seizure and shall set forth the facts upon which the seizure was~~
8 ~~made. The petition shall describe the property and include the names~~
9 ~~of all owners of record and lienholders of record. The petition shall~~
10 ~~identify any other persons known to the petitioner to have interests~~
11 ~~in the property. Petitions for the forfeiture of conveyances shall also~~
12 ~~include: the make, model, and year of the conveyance, the person in~~
13 ~~whose name the conveyance is registered, and the person who holds~~
14 ~~the title to the conveyance. The petition shall set forth the type and~~
15 ~~quantity of the controlled substance involved. A copy of the petition~~
16 ~~must be sent to each law enforcement agency which has notified the~~
17 ~~petitioner of its involvement in effecting the seizure. Notice of~~
18 ~~hearing or rule to show cause must be directed to all persons with~~
19 ~~interests in the property listed in the petition, including law~~
20 ~~enforcement agencies which have notified the petitioner of their~~
21 ~~involvement in effecting the seizure. Owners of record and~~
22 ~~lienholders of record may be served by certified mail, to the last~~
23 ~~known address as appears in the records of the governmental agency~~
24 ~~which records the title or lien. (A)(1) All property and~~
25 ~~conveyances seized by a law enforcement agency pursuant to a~~
26 ~~charge made under Section 44-53-510 must be held as shall be the~~
27 ~~total required bond for such charge. Such seized property and~~
28 ~~conveyances must be taken as the bond. This subsection does not~~
29 ~~prohibit the imposition of additional required bond, recognizance or~~
30 ~~undertaking for additional charges against the defendant pursuant to~~
31 ~~Chapter 15, Title 17. Upon conviction of the defendant, the~~
32 ~~Attorney General or his designee or the circuit solicitor or his~~
33 ~~designee, shall issue a notice to summon owners of record and~~
34 ~~lienholders of record of the forfeited property or conveyances to~~
35 ~~appear at the next ensuing court to show cause, if he has any, why~~
36 ~~the forfeiture of any of the seized property and conveyances should~~
37 ~~not be confirmed. If any person so bound fails to appear or, upon~~
38 ~~appearing, does not give a reason the property or conveyance should~~
39 ~~be returned as the court considers sufficient, then the forfeiture is~~
40 ~~confirmed. Notice to owners of record and lienholders of record~~
41 ~~required pursuant to this subsection may be served by certified mail~~
42 ~~to the last known address as appears in the records of the~~
43 ~~governmental agency which records the title or lien.~~

1 _____ (2) The judge or jury shall determine whether the property is
2 subject to forfeiture, and order the forfeiture confirmed. If the judge
3 finds a forfeiture, he shall then determine the lienholder's interest as
4 provided in this article. The judge shall determine whether any
5 property must be returned to a law enforcement agency pursuant to
6 Section 44-53-582. The forfeiture is confirmed where the court or
7 the jury finds the person guilty beyond a reasonable doubt. Where
8 the jury finds the person guilty, the judge shall determine any
9 lienholder's interest. Except in cases of death of the person before
10 the completion of forfeiture proceedings or before charges are
11 otherwise dismissed, wWhere the judge or jury finds the person
12 innocent of the charges made or where the charges are otherwise
13 dismissed, all monies, property, and conveyances and monies seized
14 shall be returned to the defendant or owner of record free and clear
15 of liens filed in association with the forfeiture proceedings filed and
16 of record with the clerk of court and register of deeds. In cases of
17 death, deportation, abandonment or flight from the jurisdiction of
18 the person before the completion of forfeiture proceedings or before
19 charges are otherwise dismissed Where the person dies before the
20 forfeiture action is completed, or where charges are otherwise
21 dismissed after the death of the person, the forfeiture is confirmed
22 and all monies, property, and conveyances and monies seized must
23 be disposed of in accordance with subsections (B) and (C) of this
24 section.

25 _____ (3) The circuit solicitor may initiate a plea bargain offer to
26 recommend a certain disposition of charges against the person or
27 reduce the level of the offense to a lesser included offense in
28 exchange for a voluntarily consent to the forfeiture of monies,
29 property, and conveyances and monies seized pursuant to this
30 chapter; Article 19 of Chapter 3, Title 16; or any other provision
31 under Title 16 or Title 17. Further, when the circuit solicitor is
32 presented with a plea bargain initiated by a defense attorney that
33 would result in the forfeiture of monies, property, and conveyances
34 and monies seized in exchange for a sentencing recommendation or
35 reduction of a charge, the solicitor may accept the proposed terms
36 and conditions. The circuit solicitor may accept a plea bargain
37 under this item as part of the acceptance of responsibility for
38 criminal charges where the property subject to forfeiture and the
39 criminal charges are connected.

40 If there is a dispute as to the allocation of the proceeds of forfeited
41 property among participating law enforcement agencies, this issue
42 must be determined by the judge. The proceeds from a sale of

1 property, conveyances, and equipment must be disposed of pursuant
2 to subsection (e) of this section.

3 ~~—All property, conveyances, and equipment not reduced to
4 proceeds may be transferred to the law enforcement agency or
5 agencies or to the prosecution agency. Upon agreement of the law
6 enforcement agency or agencies and the prosecution agency,
7 conveyances and equipment may be transferred to any other
8 appropriate agency. Property transferred must not be used to
9 supplant operating funds within the current or future budgets. If the
10 property seized and forfeited is an aircraft or watercraft and is
11 transferred to a state law enforcement agency or other state agency
12 pursuant to the provisions of this subsection, its use and retainage
13 by that agency shall be at the discretion and approval of the
14 Department of Administration.~~

15 ~~—If a defendant or his attorney sends written notice to the petitioner
16 or the seizing agency of his interest in the subject property, service
17 may be made by mailing a copy of the petition to the address
18 provided and service may not be made by publication. In addition,
19 service by publication may not be used for a person incarcerated in
20 a South Carolina Department of Corrections facility, a county
21 detention facility, or other facility where inmates are housed for the
22 county where the seizing agency is located. The seizing agency shall
23 check the appropriate institutions after receiving an affidavit of
24 nonservice before attempting service by publication.~~

25 ~~(b) If the property is seized by a state law enforcement agency
26 and is not transferred by the court to the seizing agency, the judge
27 shall order it transferred to the Division of General Services of the
28 Department of Administration for sale. Proceeds may be used by the
29 division for payment of all proper expenses of the proceedings for
30 the forfeiture and sale of the property, including the expenses of
31 seizure, maintenance, and custody, and other costs incurred by the
32 implementation of this section. The net proceeds from any sale must
33 be remitted to the State Treasurer as provided in subsection (g) of
34 this section. The Division of General Services of the Department of
35 Administration may authorize payment of like expenses in cases
36 where monies, negotiable instruments, or securities are seized and
37 forfeited.~~

38 ~~—(e) If the property is seized by a local law enforcement agency
39 and is not transferred by the court to the agency, the judge shall order
40 it sold at public auction by the seizing agency as provided by law.
41 Notwithstanding any other provision of the law, proceeds from the
42 sale may be used by the agency for payment of all proper expenses
43 of the proceeding for the forfeiture and sale of the property,~~

1 including the expenses of the seizure, maintenance, and custody and
2 other costs incurred by the implementation of this section. The net
3 proceeds from the sale must be disposed of as provided by this
4 section.

5 ~~(B) (d) Any forfeiture may be effected by consent order approved~~
6 ~~by the court without filing or serving pleadings or notices provided~~
7 ~~that all owners and other persons with interests in the property,~~
8 ~~including participating law enforcement agencies, entitled to notice~~
9 ~~under this section, except lienholders and agencies, consent to the~~
10 ~~forfeiture.—Disposition of the forfeited property may be~~
11 ~~accomplished by consent of the petitioner and those agencies~~
12 ~~involved. Persons entitled to notice under this section may consent~~
13 ~~to some issues and have the judge determine the remaining issues.~~

14 All proceeds of property and cash forfeited by consent order ~~or~~
15 ~~by order of the court~~ must be disposed of as provided in subsection
16 ~~(e) (C)~~ of this section.

17 ~~(e) (C) After the return of monies used by law enforcement~~
18 ~~officers or agents, in the line of duty, to purchase controlled~~
19 ~~substances during a criminal investigation to the furnishing state or~~
20 ~~local agency or unit of government pursuant to section 44-53-582,~~
21 ~~the disposition of forfeited property under this section must be~~
22 ~~accomplished as provided in this subsection.~~

23 (1) All real or personal property, conveyances, and equipment
24 of any value defined in Section 44-53-520, when reduced to
25 proceeds, any cash more than one thousand dollars, any negotiable
26 instruments, and any securities which are seized and forfeited must
27 be disposed of as follows:

28 (a) (1)-seventy-five percent to the law enforcement agency
29 or agencies;

30 (b) (2)-twenty percent to the prosecuting agency; and

31 (c) (3)-five percent must be remitted to the State Treasurer
32 and deposited to the credit of the general fund of the State.

33 (2) Forfeited property under Section 16-3-2090 must be
34 accomplished as follows:

35 (a) Property forfeited under this subsection shall first be
36 applied to payment to the victim. The return of the victim to his
37 home country or other absence of the victim from the jurisdiction
38 shall not prevent the victim from receiving compensation.

39 (b) The victim and the South Carolina Victim Compensation
40 Fund shall each receive one-fourth, and law enforcement shall
41 receive one-half of the value of the forfeited property.

42 (c) If no victim is named, or reasonable attempts to locate a
43 named victim for forfeiture and forfeiture fails, then all funds shall

1 revert to the South Carolina Victim Compensation Fund and law
2 enforcement to be divided equally.

3 (d) If federal law enforcement becomes involved in the
4 investigation, they shall equitably split the share local law
5 enforcement receives under this section, if they request or pursue
6 any of the forfeiture. The equitable split must be pursuant to 21
7 U.S.C. Section 881(e)(1)(A) and (e)(3), 18 U.S.C. Section
8 981(e)(2), and 19 U.S.C. Section 1616a.

9 ~~— (f) The first one thousand dollars of any cash seized and forfeited~~
10 ~~pursuant to this article remains with and is the property of the law~~
11 ~~enforcement agency which effected the seizure unless otherwise~~
12 ~~agreed to by the law enforcement agency and prosecuting agency.~~

13 ~~(g)-(D)~~ All forfeited monies and proceeds from the sale of
14 forfeited property as defined in Section 44-53-520 must be retained
15 by the governing body of the local law enforcement agency or
16 prosecution agency and deposited in a separate, special account in
17 the name of each appropriate agency. These accounts may be drawn
18 on and used only by the law enforcement agency or prosecution
19 agency for which the account was established. For law enforcement
20 agencies, the accounts must be used for drug enforcement activities,
21 or for drug or other law enforcement training or education. For
22 prosecution agencies, the accounts must be used in matters relating
23 to the prosecution of drug offenses and litigation of drug-related
24 matters.

25 These accounts must not be used to supplant operating funds in
26 the current or future budgets. Expenditures from these accounts for
27 an item that would be a recurring expense must be approved by the
28 governing body before purchase or, in the case of a state law
29 enforcement agency or prosecution agency, approved as provided
30 by law.

31 In the case of a state law enforcement agency or state prosecution
32 agency, monies and proceeds must be remitted to the State Treasurer
33 who shall establish separate, special accounts as provided in this
34 section for local agencies.

35 All expenditures from these accounts must be documented, and
36 the documentation made available for audit purposes and upon
37 request by a person under the provisions of Chapter 4, Title 30, the
38 Freedom of Information Act.

39 ~~(h)-(E)~~ The use of all property forfeited pursuant to Section
40 44-53-520 and retained by the law enforcement agency must be
41 documented and the documentation available upon request by a
42 person subject to the provisions of Chapter 4 of Title 30.

1 ~~(i)-(F)~~ An expenditure from these accounts must be made in
2 accordance with Section 44-53-582 and the established procurement
3 procedures of the jurisdiction where the account is established.

4 ~~(j)-(G)~~ A law enforcement agency may draw from the account an
5 amount necessary to maintain a confidential financial account to be
6 used in the purchase of information or evidence relating to an
7 investigation, to purchase services, or to provide compensation in
8 matters which are confidential and in support of law enforcement
9 activity. The disbursement of funds from the confidential financial
10 account must be made in accordance with procedures approved by
11 the South Carolina Law Enforcement Division (division). All
12 records of disbursement must be maintained and made available for
13 audit purposes as provided in this section.

14 All expenditures from these accounts must be fully documented
15 and audited annually with the general fund of the appropriate
16 jurisdiction.

17 ~~(k) In all cases where the criminal offense giving rise to the~~
18 ~~forfeiture of property described in Section 44-53-520 is prosecuted~~
19 ~~in a state court, the forfeiture proceeding must be accomplished in~~
20 ~~the court of common pleas for the jurisdiction where the items were~~
21 ~~seized.~~

22 (H) A person who, knowing of the commission of an offense,
23 takes any money or reward, upon an agreement or undertaking
24 expressed or implied, to compound, conceal or withhold evidence
25 of any property subject to forfeiture under this article shall be
26 prosecuted and subject to the penalties provided for under the
27 criminal forfeiture provisions of this chapter and the provisions of
28 Section 16-7-370 shall not apply. Rule 4.5 of the Rules of
29 Professional Conduct under Rule 407 of the South Carolina
30 Appellate Court Rules shall not apply to the prosecution of
31 forfeiture proceedings, and the forfeiture process under this chapter
32 shall not be treated as the compounding of criminal and civil charges
33 or a violation of Rule 4.5.

34
35 SECTION 4. Section 44-53-582 of the 1976 Code is amended to
36 read:

37
38 The Court shall approve the expenditure of forfeited monies to be
39 All monies used by law enforcement officers and or agents, in the
40 line of duty, to purchase controlled substances during a criminal
41 investigation and such monies must be returned to the state or local
42 agency or unit of government furnishing the monies upon a
43 determination by the court that the monies were used by law

1 ~~enforcement officers or agents, in the line of duty, to purchase~~
2 ~~controlled substances during a criminal investigation.~~ The court may
3 order a defendant to return the monies to the state or local agency or
4 unit of government at the time of sentencing.

5
6 SECTION 5. Section 44-53-586 of the 1976 Code is amended to
7 read:

8
9 (A) Upon agreement of the parties or conviction the court shall
10 issue a preliminary order of forfeiture that may be challenged by
11 third party claimants within thirty days. Third party claimants
12 alleging to be innocent owners shall follow the process outlined in
13 this section.

14 ~~(B)(a)~~ Any innocent owner or any manager or owner of a licensed
15 rental agency or any common carrier or carrier of goods for hire may
16 apply to the circuit court of common pleas for the return of any item
17 seized under the provisions of Section 44-53-520. Notice of hearing
18 or rule to show cause accompanied by copy of the application must
19 be directed to all persons and agencies entitled to notice under
20 Section 44-53-530. If the judge denies the application, the hearing
21 may proceed as a criminal forfeiture hearing held pursuant to
22 Section 44-53-530.

23 ~~(C)(b)~~ The court may return any seized item to the owner if the
24 owner demonstrates to the court by a preponderance of the evidence:

25 (1) in the case of an innocent owner, that the person or entity
26 was not a consenting party to, or privy to, or did not have knowledge
27 of, the use of the property which made it subject to seizure and
28 forfeiture.

29 (2) in the case of a manager or an owner of a licensed rental
30 agency, a common carrier, or a carrier of goods for hire, that any
31 agent, servant, or employee of the rental agency or of the common
32 carrier or carrier of goods for hire was not a party to, or privy to, or
33 did not have knowledge of, the use of the property which made it
34 subject to seizure and forfeiture.

35 If the licensed rental agency demonstrates to the court that it has
36 rented the seized property in the ordinary course of its business and
37 that the tenant or tenants were not related within the third degree of
38 kinship to the manager or owner, or any agents, servants, or
39 employees of the rental agency, then it is presumed that the licensed
40 rental agency was not a party to, or privy to, or did not have
41 knowledge of, the use of the property which made it subject to
42 seizure and forfeiture.

1 (D) ~~(e)~~—The lien of any innocent person or other legal entity,
 2 recorded in public records, shall continue in force upon transfer of
 3 title of any forfeited item, and any transfer of title is subject to the
 4 lien, if the lienholder demonstrates to the court by a preponderance
 5 of the evidence that he was not a consenting party to, or privy to, or
 6 did not have knowledge of, the involvement of the property which
 7 made it subject to seizure and forfeiture.

8 (E) Pursuant to Section 17-25-324, secondary victims and
 9 third-party payees, excluding the offender’s insurer, may receive
 10 restitution as determined by the court. The Department of Probation,
 11 Parole and Pardon Services shall ensure that a primary victim
 12 receives his portion of a restitution order before any of the
 13 offender’s payments are credited to a secondary victim or a third-
 14 party payee, or both.

15
 16 SECTION 6. Section 16-1-100(C) of the 1976 Code is amended to
 17 read:

18
 19 (C) The following offenses are Class C misdemeanors and the
 20 maximum terms established for a Class C misdemeanor, not more
 21 than one year, as set forth in Section 16-1-20(A), apply:
 22

1-6-100	Unlawful disclosure of confidential information
1-7-400	Circuit solicitors disabled by intoxicants
2-15-120	Confidentiality of records (Legislative Audit Council) penalty for violations
2-17-50	Failure to file requirement statement with State Ethics Commission, third or subsequent offense
2-17-130	Penalties for violations of lobbyist chapter
2-17-140	Penalties for filing groundless complaint
5-21-500	Diverting municipal funds allocated to bond payments for other purposes
6-1-120(C)	Disclosure of taxpayer information
7-25-20	Fraudulent registration or voting
7-25-100	Allowing ballot to be seen, removing ballot from voting place, improper assistance
7-25-200	Unlawful to pay a candidate to file or withdraw from candidacy
8-1-30	Knowingly allowing false claims by witnesses or jurors of mileage traveled
8-1-80	Misconduct in office, habitual negligence, and the like
8-9-10	Delivery by officer of books and papers to successor (public officers/employees)
8-9-30	Delivery by officer of monies on hand to successor
8-13-320(9)(c)	Penalty for wilful filing of groundless complaint with Ethics Commission

8-13-320(10)(g)	Penalty for wilful release of confidential information relating to ethics investigation
8-13-540(B)(2)(d)	Wilfully filing a groundless ethics complaint
8-13-1510	Failure to file reports, Ethics, Government Accountability, and Campaign Reform, third or subsequent offense
8-13-1520	Penalty for violation of ethics chapter
9-1-40	Penalties for making false statement or record (South Carolina Retirement System)
9-8-220	Penalty for false statements or falsification of records (Judges' and Solicitors' Retirement System)
9-9-210	False statements and falsification of records (General Assembly Retirement System)
9-11-320	False statements and falsification of records (Police Officers' Retirement System)
10-9-260	Interfering with state, board or licensees, mining without license
11-15-90	Failure to make payment or remit funds for payment of obligations
11-15-290	Public officer failure to make investments in accordance with article
11-48-30(C)(3)	Sale or possession of cigarettes of a manufacturer not included in the state directory
11-48-100	Knowingly violating tobacco regulations
12-21-2710	Unlawful possession or operation of gaming devices
12-21-2830	Record required of gross receipts, record subject to inspection, violations
12-24-70(B)	Submitting false information on an affidavit accompanied by a deed
12-28-2345	Unlawful alteration of petroleum products shipping information
12-51-96	Conditions of redemption, taxation
12-54-44(B)(3)	Wilful failure to pay estimated tax or keep required records
12-54-44(B)(4)	Wilful furnishing of false statement required for tax purposes
12-54-44(B)(5)	Wilfully providing employer with false information which decreases tax withheld
12-54-44(B)(6)(c)(iii)	Wilful delivery to tax department of fraudulent document
12-54-240	Disclosure of records of and reports and returns filed with the Department of Revenue by employees and agents of the department and the State Auditor's Office prohibited
13-7-80	Violation of provisions concerning nuclear energy
14-7-1720	Penalty for disclosing State Grand Jury information
14-17-580	Clerk is responsible for books, papers, and other property
14-23-680	Judge responsible for books, papers, and property of office
16-1-55	Accessory after the fact to a Class B Misdemeanor
16-3-210	Assault and battery by mob in the third degree
16-3-530	Penalties, hazing
16-3-610	Assault with concealed weapon

16-3-1050(A)	Failure to report abuse, neglect, or exploitation of a vulnerable adult
16-3-1340	Victim compensation fund, soliciting employment to pursue claim or award
16-3-1710(B)	Harassment in the second degree
16-3-1720(D)	Harassment first degree with use of licensing or registration information
16-3-2090(D)	Use of property or conveyance subject to forfeiture
16-7-110	Wearing masks and the like (See Section 16-7-140)
16-7-120	Placing burning or flaming cross in public place (See Section 16-7-140)
16-7-150	Slander and libel
16-9-260	Corruption of jurors, arbitrators, umpires, or referees
16-9-270	Acceptance of bribes by jurors, arbitrators, umpires, or referees
16-9-320(A)	Opposing or resisting law enforcement officer serving process
16-9-370(a)	Taking money or reward to compound or conceal offense
16-11-150(a)	Burning lands of another without consent—First offense
16-11-180	Negligently allowing fire to spread to lands or property of another—Second or subsequent offense
16-11-700(F)	Littering (exceeding 500 lbs. or 100 cu. ft. in volume)
16-11-730	Malicious injury to or interference with microwave, radio, or television facilities; unauthorized use of such facilities
16-11-750	Unlawful injury or interference with electric lines
16-11-770(B)(2)	Committing illegal graffiti vandalism, second offense
16-11-820	Theft of cable television service unlawful use without payment (See Section 16-11-855)—Second and subsequent offense
16-11-825	Theft of cable television, unauthorized connection or use of device to cable television system (See Section 16-11-855)—Second and subsequent offenses
16-11-830	Theft of cable television service, aid, abet, or attempt (See Section 16-11-855)—Second and subsequent offenses
16-11-835	Advertisement or sale of instrument designed to avoid payment for cable services (See Section 16-11-855)—Second and subsequent offenses
16-11-840	Unauthorized device to decode or descramble cable television signal (See Section 16-11-855)—Second and subsequent offenses
16-11-845	Use, sale, or installation of a converter or similar device for unauthorized reception of cable signals (See Section 16-11-855)—Second and subsequent offenses
16-11-855	Violation of Article 8, Theft of Cable Television Service
16-11-910	Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(E))
16-11-915	Unauthorized sale of article containing live performances (See Section 16-11-920(E))
16-11-920(A)(1)	Operation of an audiovisual recording device in a motion picture theatre with intent to record, first offense

16-11-930	Illegal distribution of recordings without name and address of manufacturer and designation of feature artist (See Section 16-11-940(D))
16-13-15	Falsifying or altering transcript or diploma, fraudulent use of falsified or altered transcript or diploma penalty
16-13-65	Stealing aquaculture products or damaging aquaculture facilities - First and second offense
16-13-165(B)(1)(a)	Knowingly and intentionally installing or reinstalling a counterfeit or nonfunctional airbag—1st offense
16-13-300	Fraudulent removal or secreting of personal property attached or levied on
16-13-385(C)(1)	Tampering with a utility meter for profit - first offense
16-13-385(D)(1)	Tampering with a utility meter that results in property damage in excess of \$5,000 or results in the risk of great bodily injury or death - first offense
16-13-400	Avoiding or attempting to avoid payment of telecommunications
16-13-410(1)	Making or possessing device, plans or instruction which can be used to violate Section 16-3-400
16-14-60	Financial transaction card fraud
16-14-60(a)	Financial transaction card fraud—value of things of value does not exceed five hundred dollars in any six-month period
16-14-60(a)(2)(d)	Financial transaction card fraud—using financial transaction card to exceed certain balances or authorized lines of credit
16-14-60(b)	Financial transaction card fraud by a person authorized to furnish anything of value upon presentation of a financial transaction card if the value does not exceed five hundred dollars in a six-month period
16-14-60(c)	Financial transaction card fraud—filing of false application to an issuer of a financial transaction card
16-14-60(d)	Financial transaction card fraud—filing of false notice or report of theft
16-14-80	Criminally receiving goods and services fraudulently obtained
16-15-50	Seduction under promise of marriage
16-15-60	Adultery or fornication
16-15-90	Prostitution (See Section 16-15-110(3))—Third or subsequent offenses
16-15-100	Prostitution; further acts (See Section 16-15-110(3))—Third or subsequent offenses
16-15-315	Condition on certain sales for resale or on franchising rights that obscene material be received for resale prohibited
16-15-325	Participation in preparation of obscene material prohibited
16-16-20(3)(c)	Computer crime—second degree—First offense
16-17-310	Imitation of organizations' names, emblems, and the like
16-17-420(C)	Unlawful school disturbances by nonstudents
16-17-500(3)	Providing tobacco products to a minor
16-17-520	Disturbance of religious worship
16-17-540	Bribery with respect to agents, servants, or employees

16-17-650(A)(1)	Engaging in cockfighting, game fowl or illegal game fowl fighting testing, First Offense
16-17-680(D)	Purchase from certain persons of nonferrous metals for the purpose of recycling the nonferrous metals, second offense
16-17-680(D)(2)	Unlawful purchase or transportation of nonferrous metals, second offense
16-17-680(E)	Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, first offense
16-17-680(F)	Secondary metals recycler possessing stolen nonferrous metal, second offense
16-17-680(G)	Transportation of nonferrous metals of an aggregate weight of more than ten pounds, second offense
16-17-700	Tattooing
16-17-720	Impersonating law enforcement officer
16-17-735	Impersonation of state or local official or employee or law enforcement officer or asserting authority of state law in connection with a sham legal process
16-17-760	Falsely representing oneself as being the recipient of certain military awards
16-17-770(A)(1)	Impersonating a lawyer—First offense
16-19-10	Setting up lotteries
16-19-40	Unlawful games and betting
16-21-60(B)	Use of vehicle without permission (Temporary purpose only)
16-21-70	Use of bicycle or other vehicle without permission, but without intent to steal
16-23-20	Unlawful carrying of pistol (See Section 16-23-50(A)(2))
16-23-450	Placing loaded trap gun, spring gun, or like device
16-23-730	Manufacturing, possessing, transporting, distributing, using, aiding, counseling, or conspiring in the use of a hoax device or replica of a destructive device or detonator that causes a person to believe that the hoax device or replica is a destructive device or detonator
16-25-20(C)	Domestic violence in the second degree
16-27-40	Penalty (Animal Fighting or Baiting Act)—Second offense
17-15-90(2)	Wilful failure to appear before a court when released in connection with a charge for a misdemeanor
17-22-170	Unlawful retention or release of information regarding participation in intervention program
17-28-350	Willful and malicious destruction of physical evidence or biological material. Second and subsequent offense
17-29-20	Installation of pen register or tap and trace device
17-30-50(B)(1)	Interception of wire, electronic or oral communications—First offense
20-3-210	Unlawful advertising for purpose of procuring divorce (See Section 20-3-220)
22-9-170	Oppression in office or other misconduct, punishment
23-3-475(B)(2)	Providing false information when registering as a sex offender—Second offense

23-17-40	Liability of sheriff for official misconduct for remaining in contempt after attachment
23-19-130	Penalties for failure to pay over monies (by sheriff)
23-31-215(M)	Carrying a concealed weapon into a prohibited environment
23-31-225	Carrying a concealable weapon into the dwelling place of another without permission
23-35-150(3)	Violation concerning fireworks and explosives—Third and subsequent offenses
23-37-50	Violations concerning safety glazing materials
23-39-40	Prohibited acts (Hazardous Waste Management Act)—Second and subsequent offenses (See Section 23-39-50(a))
23-50-50(B)	Divulging privileged communication, protected information, or a protected identity
24-3-410	Sale of prison-made products on open market generally prohibited
24-3-420	Violations of article governing prison industries other than Section 24-3-410
24-5-90	Discrimination in treatment of prisoners unlawful
24-27-300	Frivolous complaints or appeals filed by a prisoner
25-1-440(c)(1)	Fraudulent or wilful misstatement of fact in application for financial federal disaster assistance
25-1-1420	Unlawful purchase or receipt of military property
25-1-3067	Conduct that prejudices the good order and discipline in military forces or brings discredit upon military forces
25-15-20	Improper use of Confederate Crosses of Honor
27-18-350(D)	Refusal to deliver property under Uniform Unclaimed Property Act
30-2-50	Use of personal information from a public body for commercial solicitation
33-56-140	Illegal charitable organization of professional solicitations
33-56-145(A)	Defrauding a charity (first offense)
33-56-145(B)	Giving false information with respect to registering a charity (first offense)
33-57-170(A)	Person or organization that unlawfully conducts a nonprofit raffle - first offense
33-57-170(B)	Person or organization that violates a provision of Title 33, Chapter 57 with the intent to deceive or defraud an individual or nonprofit organization - first offense
33-57-170(C)	Person or organization that gives false or misleading information in a registration or report under Title 33, Chapter 57
34-1-120	Penalties for obstructing commissioner of banking
34-3-70	False statements concerning solvency of bank
34-3-90	Penalties (violation of Sections 34-1-60, 34-1-70, 34-3-310, 34-3-320, 34-5-10 to 34-5-80 and 34-5-100 to 34-5-150 regarding banks and banking generally)
34-11-30	Receipt of deposits or trusts after knowledge of insolvency (banks and banking generally)

34-11-60	Drawing and uttering fraudulent check, draft, or other written order or stopping payment on check, draft, or order with intent to defraud (more than \$200)— First offense
34-19-110	Use of words “safe deposit” or “safety deposit”
34-25-90(b)	Wilfully entering false statements in bank records by an officer, director, agent, or employee of a bank holding company or a subsidiary of it
34-28-390	Penalties and remedies (violations concerning savings and loan acquisition and holding companies)
34-28-740	False statement affecting credit or standing of savings association
34-36-70	Violation of a provision that regulates loan brokers
37-5-301(a),(b)	Wilful violations (Consumer Protection Code)
37-5-302	Disclosure violations (Consumer Protection Code)
37-5-303	Fraudulent use of cards (Consumer Protection Code)
37-11-120	Violation of a provision concerning the licensing and regulation of Continuing Care Retirement Communities
38-13-200	Penalty for refusing to be examined under oath (Insurance)
38-27-80(d)	Cooperation of officers, owners, and employees (violation) (Insurance)
38-49-40	Violation of a provision that regulates Motor Vehicle Physical Damage Appraisers
39-9-200	Misuse of commercial weights and measures (See Section 39-9-208(A))
39-11-170	Violation of a provision that regulates weighmasters (second or subsequent offense)
39-15-460	Unauthorized alteration, change, removal, or obliteration of registered mark or brand (labels and trademarks)
39-15-470	Purchase or receipt of containers marked or branded from other than registered owner
39-15-480	Unauthorized possession of marked or branded containers (trade and commerce)
39-15-490	Effect of refusal to deliver containers to lawful owner (trade and commerce)
39-15-500	Taking or sending containers out of State without consent of owner
39-15-1190	Intentional use of counterfeit mark or trafficking in goods carrying the mark
39-15-1190(B)(1)(a)(i)	Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of \$2000 or less; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark
39-17-340	Penalties (violation of article concerning grading of watermelons)
39-19-60	Penalty for disposal of stored cotton without consent of owner
39-22-90(A)(5)-(7)	Prohibited acts. State Warehouse System (See Section 39-22-90(B))
39-41-570	Penalties (violation of article concerning deception in sale of liquid fuels, lubricating oils and greases)

39-75-50	Selling, offering for sale, or delivering for introduction into this State nonconforming regrooved tires
40-1-200	Penalty for unlawful practice of a profession or submitting false information to obtain a license to practice a profession
40-2-200	Certified Public Accountants and Public Accountants regulations violations
40-3-200	Engaging in practice of architecture in violation of chapter or knowingly submitting false information for purpose of obtaining license
40-6-200	Penalties (violation of chapter concerning auctioneers)—Second offense
40-7-200	Practicing barbering unlawfully or submitting false information to obtain barbering license
40-8-110(K)	Failure to make required contribution to care and maintenance trust fund or a merchandise account fund
40-8-190	Submitting false information to procure cemetery operator's license
40-10-200	Violation of First Protection Sprinkler Act
40-11-200	Illegal practice as licensed contractor
40-18-150	Penalties (violation of chapter concerning detective and private security agencies)
40-23-200	Practice as environmental systems operator in violation of Title 40, Chapter 23
40-31-20	Penalties (violation of chapter concerning naturopathy)
40-33-200	Unauthorized practice of nursing
40-35-200(C)	Administering a nursing home, residential care facility or habilitation center without a license
40-36-200	Knowingly submitting false information to obtain license to practice as occupational therapist or as occupational therapy assistant
40-38-200	Violation of chapter regulating Opticians
40-41-60	License required for erection of lightning rods
40-41-220	Encamping and trading in animals or commodities by nomadic individuals without license unlawful
40-43-140	Unlawful use of titles, declarations, and signs—unlawful dispensing, compounding, and sale of drugs (pharmacists)
40-47-112	Attending to a patient while under the influence of drugs or alcohol
40-47-200	Submitting false information for purpose of obtaining a license to practice medicine
40-51-220	Penalties (violation of chapter on podiatry)
40-54-80	Violations of chapter concerning dealers in precious metals Second offense
40-55-170	Unauthorized practice of psychology
40-56-200	State Board of Pyrotechnic Safety violations
40-63-200	Practice as social worker in violation of Title 40, Chapter 63
40-68-150(B)	Staff Leasing Services violation
40-79-200(A)	Penalty (violation of South Carolina Regulation of Burglar Alarm System Businesses Act)

40-82-200	Failure to obtain a license to engage in liquified petroleum gas activities
41-1-60	Certain transactions between carriers or shippers and labor organizations prohibited, penalties
41-15-320(e)	Penalties (wilfully violating safety or health rule or regulation)—Subsequent offense
41-25-30	Private personnel placement services applications and licensing (violations) (See Section 41-25-90)
41-25-40	Private personnel placement services; duties of licensees (See Section 41-25-90)
41-25-50	Prohibited activities or conduct of personnel agencies (See Section 41-25-90)
41-25-60	Advertisements in South Carolina of firms located outside its jurisdiction (See Section 41-25-90)
41-25-70	Prohibited activities or conduct of employers or person seeking employment (private personnel agencies) (See Section 41-25-90)
41-25-80	Confidentiality of record and files (private personnel agencies) (See Section 41-25-90)
42-9-360	Receiving fees, consideration, or gratuity for services not approved by the commission or the court
42-15-90	Receipt of fees, other consideration, or a gratuity not approved by the Worker's Compensation Commission
43-5-25	Wilful use of payment for purpose not in best interest of child, protective payee
43-5-950	Violations of article concerning women, infants, and children supplemental food program
43-35-85(A)	Failure to report abuse, neglect, or exploitation of a vulnerable adult
44-2-140	Underground Petroleum Response Bank Act violation
44-6-180(B)	Medically Indigent Assistance Act confidentiality violation
44-6-200	Falsification of information regarding eligibility for Medically Indigent Assistance Program
44-17-860	Unlawful taking of person from mental health facility without permission
44-22-100(C)	Unlawful to disclose records of mental health patient or former patient
44-22-220(C)	Unlawful to wilfully deny a patient his rights afforded him under chapter
44-23-240	Unwarranted confinement of an individual
44-23-1150(D)	Submitting inaccurate or untruthful information concerning sexual misconduct
44-24-210	Unlawful without prior authorization to take child from grounds of inpatient facility
44-26-210	Denial of rights to a client with intellectual disability
44-32-120(F)	Unlawful body piercing
44-34-100(F)	Tattooing violation
44-41-31(C)	False representation on an affidavit for abortion
44-41-460(D)	Falsifying a form required to report an abortion
44-43-580	Traffic in dead bodies

44-53-50(E)	Sale of cleaning agents containing phosphates prohibited
44-53-370(b)(4)	Prohibited Acts A, penalties (manufacture or possession of Schedule V drugs with intent to distribute)—First offense
44-53-370(d)(2)	Prohibited Acts A, penalties (possession of other controlled substances in Schedules I through V)—Second and subsequent offense
44-53-398(H)(3)	Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, First Offense
44-53-445(D)(2)	Purchase of controlled substance within proximity of school
44-53-510 44-53-590	Penalty for use of property in manner which makes it subject to forfeiture (as provided in Sections 44-53-520 and 44-53-530)
44-53-1530(2)(b)	Possession of anabolic steroids, ten or fewer doses (second or subsequent offense)
44-53-1530(3)(a)	Possession of anabolic steroids, 11 to 99 doses (first offense)
44-55-80	Unlawful acts (violation of State Safe Water Drinking Act) (See Section 44-55-90(a))
44-56-130	Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140C.)—First offense
44-56-490(C)	Wilfully violating a provision of the Drycleaning Facility Restoration Trust Fund provisions
44-63-161(C)	Willful violation of regulation or order relative to recording, reporting, or filing information with Bureau of Vital Statistics
44-93-150(C)	Infectious Waste Management Act violation (first offense)
44-96-100(B)	Wilful violation of solid waste regulations, first offense
44-96-450(B)	Wilful violation of Solid Waste Act—First offense
45-9-85	Violation of confidentiality of Section 45-9-60 (Equal enjoyment and privileges to public accommodations, complaints, hearings, etc.)
46-1-50	Firing turpentine farms
46-1-75	Maliciously damaging farm product, research facility or equipment valued at less than \$500
46-10-100	Penalties (violation of article concerning boll weevil eradication)
46-23-80	Penalty (violation of South Carolina Noxious Weed Act)
46-41-170(1)	Penalty (violation of chapter concerning dealers and handlers of agriculture products) Second or subsequent offense
46-50-30, section 15	Disclosure of confidential information relating to Southern Interstate Dairy Compact
46-50-60	Violation of Southern Interstate Dairy Compact
47-1-40(A)	Cruelty to animals, second or subsequent offense
47-9-10	Marking, branding, or disfiguring large animals of another—Second or subsequent offense
47-9-30	Use of horse, mare, or mule without permission
47-9-410	Violations (article concerning livestock generally)

47-17-60	Prohibited acts (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-70	Slaughtering or processing except in compliance with article prohibited (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-17-80	Records (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a))
47-21-80(B)	Penalty for violation of Farm Animal and Research Facilities Protection Act (violation of Section 47-21-60)
47-21-250(B)	Unlawful entry into or remaining unlawfully in a crop operation
48-39-170(A)	Penalties (violation of chapter concerning coastal tidelands and wetlands)—Second or subsequent offense
50-1-125(2), (3), and (4)	Trafficking in wildlife
50-1-136	Penalties for conspiracy (violation of provisions of Title 50 relating to fish, game, and watercraft)
50-5-1535	Unlawful taking, possessing, buying, selling, or shipping of short nose sturgeon
50-5-2305(D)	Unlawful catching of wild rock (second or subsequent offense)
50-5-2535	Engaging in prohibited activities while under suspension, Marine Resources Act
50-9-1200	Hunting or fishing while under suspension
50-11-95	Engaging in Computer Assisted Remote Hunting, First Offense
50-11-705	Night hunting for deer, bear, or turkey—First offense
50-11-852	Molesting or killing a bald eagle
50-11-1920	Violation of food service permit to sell exotic farm-raised venison
50-11-2640(B)	Bringing into State or importing live coyote or fox without permit—First offense
50-13-1410	Unlawful to pollute waters so as to injure fish and shellfish
50-13-1440	Using explosives to take fish unlawful—Second offense
50-15-80(b)	Penalties, violation of Sections 50-15-30(c) or 50-15-40(d)
50-18-270(C)	Placing or releasing species imported from another state into waters of State—Second offense
50-18-285(C)	Damaging or poisoning aquaculture products or facilities—Second offense
50-21-112(B)(2)	Operating a water device while under the influence of alcohol or drugs (second offense)
50-21-130(A)(1)	Failure of an operator of a vessel involved in a collision resulting in property damage to stop and render assistance
52-5-10	Race horses must not be entered under assumed names or out of proper class
52-5-40	Misrepresenting or concealing former performance of race horse
54-7-810(B)(1)	Violation of Underwater Antiquities Act
55-1-100(F)	Unlawful to operate or act as a flight crew member of aircraft while under the influence of alcohol or drugs

55-3-130	Discharging a laser at an aircraft
55-3-130	Shining light at aircraft with intent to interfere with the operation of the aircraft
56-1-25	Disclosure of Department of Motor Vehicles confidential information
56-3-150	Illegal operation of foreign vehicle
56-5-1210(A)(1)	Failure to stop a vehicle involved in an accident when injury results but great bodily injury or death does not occur
56-5-1220	Failure to comply with the duties of a driver involved in an accident
56-5-2780	Unlawfully passing a stopped school bus, great bodily injury results
56-5-2930	Unlawful for narcotic users or persons under influence of liquor, drugs or like substances to drive (See Section 56-5-2940(2))—Second offense
56-5-2933	Driving with an unlawful alcohol concentration, second offense
56-5-2941(K)(1)(a)	Unlawful operation of a vehicle equipped with an ignition interlock device, first offense
56-5-4975(A)	Operation of unlicensed ambulance without removing exterior markings, sirens, etc.
56-11-250	Failure of a motor carrier to apply for a registration card and identification marker
56-17-10	Failure to purchase a license, keep records, supply information when required by law
56-19-240	Application for certificate, form, and contents (vehicle title)
56-19-480	Transfer and surrender of certificates, license plates, registration cards, and manufacturers serial plates of vehicles sold as salvage, abandoned, scrapped, or destroyed—Second and subsequent offenses
56-31-50(C)	Rental company making a false report regarding certain personal property taxes
56-31-50(D)	Misrepresentation of the amount of personal property taxes on a private passenger motor vehicle or rental vehicle paid or the amount of surcharges collected
57-25-145(C)	Placing an outdoor sign advertising an adult or sexually-oriented business within one mile of a public highway
58-3-280	Restriction on employment of former commissioners by public utility
58-4-130	Restriction on outside employment of executive director
58-7-60(C)(1)	Unlawful appropriation of gas that results in property damage in excess of \$5,000 or the risk of great bodily injury or death - first offense
58-7-60(E)(1)	Aiding, abetting, or assisting another person in withdrawing and appropriating gas - first offense
58-7-70	Wrongful use of gas and interference with gas meters - first offense
58-7-70(C)(1)	Wrongful use of gas and interference with gas meters for profit - first offense
58-7-70(D)(1)	Wrongful use of gas and interference with gas meters for profit when violation results in property damage greater than \$5,000 or in risk of great bodily injury or death - first offense
58-15-875(D)(1)	Unlawful conduct relating to railroad track material for recycling, first offense

58-15-1110	Violation by Railroads of Interstate Commerce Act
58-17-2760	Criminal penalty on individuals for violation of transportation of freight
58-17-4030	Injury due to negligence or carelessness of general railroad law
58-17-4050	Injury due to wilful violation of general railroad law
58-23-920	Insurance required of owners of motor vehicles transporting goods for hire— First offense
59-5-130	Members shall not contract with State Board of Education
59-69-260	Officials shall not acquire interest in claims or contracts (school funds)
61-2-240	Interference with an officer or use of abusive language by an officer or another person
61-4-1530	Operation of brewery or winery without permit
61-6-4010(B)(2)	Unlawful manufacture, possession or sale of alcoholic liquors—Second offense
61-6-4025(b)	Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft—Second offense
61-6-4030(b)	Transportation of alcoholic liquors in a taxi or other vehicle for hire—Second offense
61-6-4040(b)	Rendering aid in unlawful transportation of alcoholic liquor—Second offense
61-6-4060(B)(2)	Unlawful storage of alcoholic liquor in a place of business—Second offense
61-6-4100(b)	Manufacture, sale, or possession of unlawful distillery—Second offense
61-6-4110(b)	Knowingly permitting or allowing a person to locate an unlawful distillery on a premise—Second offense
61-6-4120(b)	Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors—Second offense
61-6-4130(b)	Present at a place where alcoholic liquors are unlawfully manufactured— Second offense
61-6-4150(b)	Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft—Second offense
61-6-4160(b)	Unlawful sale of alcoholic liquors on Sundays, election days, and other days— Second offense
61-6-4170(B)(2)	Advertisement of alcoholic liquors from billboard—Second offense
61-6-4200	Unlawful disposal, rescue, or attempted disposal or rescue of alcoholic liquors
61-8-50	Violation of a restraining order against unlawful sale, barter, exchange, storage, or possession of alcoholic liquors
62-2-901	Destruction of or failure to deliver a will to a Judge of Probate
63-3-620	Contempt of court
63-5-20	Failure to provide reasonable support to a spouse or minor child
63-7-940	Dissemination of classified information
63-7-1990(A)	Dissemination of confidential reports
63-11-90	Violations of Article 1, Child Welfare Agencies
63-11-1350	Disclosure of confidential records
63-13-40(B)	Unlawful application for employment by an ex-convict

63-13-185(F)	Unlawful administration of medicine to a child by childcare facility personnel
63-13-190(C)	Unlawful application for employment by ex-convict
63-13-420(F)	Application for operator license for childcare facilities when persons convicted of certain crimes
63-13-430(E)	Renewal application for operator license for childcare facilities when persons convicted of certain crimes
63-13-620(E), (F)	Application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes
63-13-630(E), (G)	Renewal application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes
63-13-820(E), (F)	Application for registration for childcare facilities when persons convicted of certain crimes
63-13-830(C), (D)	Renewal application for registration for childcare facilities when persons convicted of certain crimes
63-13-1010(D)	Application for license or registration of church and religious centers for childcare facilities when persons convicted of certain crimes
63-17-1070	Unlawful release of information

1
2 SECTION 7. Chapter 1, Title 16 of the 1976 Code is amended by
3 adding an appropriately numbered section to read:

4
5 Section 16-1-140. For purposes of monies, property, and
6 conveyances and monies subject to seizure and forfeiture pursuant
7 to this chapter, the procedures and requirements for seizure and
8 forfeiture under Chapter 53, Title 44 shall apply and, as to any
9 conflicts, supersede the provisions of this chapter.”

10
11 SECTION 8. Section 16-3-2090 of the 1976 Code is amended to
12 read:

13
14 (A)(1) Monies, pProperty, and conveyances and monies subject
15 to forfeiture pursuant to this chapter include ~~The following are~~
16 ~~subject to forfeiture:~~

17 (1) ~~(a)~~ all monies used, or intended for use, in violation of
18 Section 16-3-2020;

19 (2) ~~(b)~~ all property constituting the proceeds obtained
20 directly or indirectly, for a violation of Section 16-3-2020;

21 (3) ~~(c)~~ all property derived from the proceeds obtained,
22 directly or indirectly, from any sale or exchange for pecuniary gain
23 from a violation of Section 16-3-2020;

1 (4) ~~(d)~~ all property used or intended for use, in any manner
2 or part, to commit or facilitate the commission of a violation for
3 pecuniary gain of Section 16-3-2020;

4 (5) ~~(e)~~ all books, records, and research products and
5 materials, including formulas, microfilm, tapes, and data which are
6 used, or which have been positioned for use, in violation of Section
7 16-3-2020;

8 (6) ~~(f)~~ all conveyances including, but not limited to, trailers,
9 aircraft, motor vehicles, and watergoing vessels, which are used or
10 intended for use unlawfully to conceal or transport or facilitate a
11 violation of Section 16-3-2020. No motor vehicle may be forfeited
12 to the State under this item unless it is used, intended for use, or in
13 any manner facilitates a violation of Section 16-3-2020;

14 (7) ~~(g)~~ all property including, but not limited to, monies,
15 negotiable instruments, securities, or other things of value furnished
16 or intended to be furnished by any person in exchange for any kind
17 of services under Section 16-3-2020, and all proceeds including, but
18 not limited to, monies, and real and personal property traceable to
19 any exchange under Section 16-3-2020; and

20 (8) ~~(h)~~ overseas assets of persons convicted of trafficking in
21 persons also are subject to forfeiture to the extent they can be
22 retrieved by the government.

23 (B) For purposes of monies, property, and conveyances and
24 monies subject to seizure and forfeiture pursuant to this chapter, the
25 procedures and requirements for seizure and forfeiture under
26 Chapter 53, Title 44 shall apply and, as to any conflicts, supersede
27 the provisions of this chapter.

28 ~~(2) Any property subject to forfeiture may be seized by the~~
29 ~~investigating agency having authority upon warrant issued by any~~
30 ~~court having jurisdiction over the property. Seizure without process~~
31 ~~may be made if the:~~

32 ~~—— (a) seizure is incident to an arrest or a search under a search~~
33 ~~warrant or an inspection under an administrative inspection warrant;~~

34 ~~—— (b) property subject to seizure has been the subject of a prior~~
35 ~~judgment in favor of the State in a criminal injunction or forfeiture~~
36 ~~proceeding based upon Section 16-3-2020;~~

37 ~~—— (c) the investigating agency has probable cause to believe~~
38 ~~that the property is directly or indirectly dangerous to health or~~
39 ~~safety; or~~

40 ~~—— (d) the investigating agency has probable cause to believe~~
41 ~~that the property was used or is intended to be used in violation of~~
42 ~~Section 16-3-2020.~~

1 ~~—— (3) In the event of seizure, proceedings under this section~~
2 ~~regarding forfeiture and disposition must be instituted within a~~
3 ~~reasonable time.~~
4 ~~—— (4) Any property taken or detained under this section is not~~
5 ~~subject to replevin but is considered to be in the custody of the~~
6 ~~investigating agency making the seizure subject only to the orders~~
7 ~~of the court having jurisdiction over the forfeiture proceedings.~~
8 ~~Property is forfeited and transferred to the government at the~~
9 ~~moment of illegal use. Seizure and forfeiture proceedings confirm~~
10 ~~the transfer.~~
11 ~~—— (5) For the purposes of this section, whenever the seizure of~~
12 ~~property subject to seizure is accomplished as a result of a joint~~
13 ~~effort by more than one law enforcement agency, the law~~
14 ~~enforcement agency initiating the investigation is considered to be~~
15 ~~the agency making the seizure.~~
16 ~~—— (6) Law enforcement agencies seizing property pursuant to this~~
17 ~~section shall take reasonable steps to maintain the property.~~
18 ~~Equipment and conveyances seized must be removed to an~~
19 ~~appropriate place for storage. Monies seized must be deposited in~~
20 ~~an interest-bearing account pending final disposition by the court~~
21 ~~unless the seizing agency determines the monies to be of an~~
22 ~~evidential nature and provides for security in another manner.~~
23 ~~—— (7) When property and monies of any value as defined in this~~
24 ~~article or anything else of any value is seized, the law enforcement~~
25 ~~agency making the seizure, within ten days or a reasonable period~~
26 ~~of time after the seizure, shall submit a report to the appropriate~~
27 ~~prosecution agency.~~
28 ~~—— (a) The report must provide the following information with~~
29 ~~respect to the property seized:~~
30 ~~—— (i) description;~~
31 ~~—— (ii) circumstances of seizure;~~
32 ~~—— (iii) present custodian and where the property is being~~
33 ~~stored or its location;~~
34 ~~—— (iv) name of owner;~~
35 ~~—— (v) name of lienholder; and~~
36 ~~—— (vi) seizing agency.~~
37 ~~—— (b) If the property is a conveyance, the report shall include~~
38 ~~the:~~
39 ~~—— (i) make, model, serial number, and year of the~~
40 ~~conveyance;~~
41 ~~—— (ii) person in whose name the conveyance is registered;~~
42 ~~and~~
43 ~~—— (iii) name of any lienholders.~~

1 ~~———— (c) In addition to the report, the law enforcement agency~~
2 ~~shall prepare for dissemination to the public upon request a report~~
3 ~~providing the following information:~~
4 ~~———— (i) a description of the quantity and nature of the property~~
5 ~~and money seized;~~
6 ~~———— (ii) the seizing agency;~~
7 ~~———— (iii) the make, model, and year of a conveyance; and~~
8 ~~———— (iv) the law enforcement agency responsible for the~~
9 ~~property or conveyance seized.~~
10 ~~———— (d) Property or conveyances seized by a law enforcement~~
11 ~~agency or department may not be used by officers for personal~~
12 ~~purposes.~~
13 ~~—(B)(1) Forfeiture of property must be accomplished by petition of~~
14 ~~the Attorney General or his designee or the circuit solicitor or his~~
15 ~~designee to the court of common pleas for the jurisdiction where the~~
16 ~~items were seized. The petition must be submitted to the court~~
17 ~~within a reasonable time period following seizure and shall provide~~
18 ~~the facts upon which the seizure was made. The petition shall~~
19 ~~describe the property and include the names of all owners of record~~
20 ~~and lienholders of record. The petition shall identify any other~~
21 ~~persons known to the petitioner to have interests in the property.~~
22 ~~Petitions for the forfeiture of conveyances also shall include the~~
23 ~~make, model, and year of the conveyance, the person in whose name~~
24 ~~the conveyance is registered, and the person who holds the title to~~
25 ~~the conveyance. A copy of the petition must be sent to each law~~
26 ~~enforcement agency which has notified the petitioner of its~~
27 ~~involvement in effecting the seizure. Notice of hearing or rule to~~
28 ~~show cause must be directed to all persons with interests in the~~
29 ~~property listed in the petition, including law enforcement agencies~~
30 ~~which have notified the petitioner of their involvement in effecting~~
31 ~~the seizure. Owners of record and lienholders of record may be~~
32 ~~served by certified mail, to the last known address as appears in the~~
33 ~~records of the governmental agency which records the title or lien.~~
34 ~~———— (2) The judge shall determine whether the property is subject~~
35 ~~to forfeiture and order the forfeiture confirmed. The Attorney~~
36 ~~General or his designee or the circuit solicitor or his designee has~~
37 ~~the burden of proof to establish by a preponderance of the evidence~~
38 ~~that the property is subject to forfeiture. If the judge finds a~~
39 ~~forfeiture, he shall then determine the lienholder's interest as~~
40 ~~provided in this article. The judge shall determine whether any~~
41 ~~property must be returned to a law enforcement agency pursuant to~~
42 ~~this section.~~

1 ~~—— (3) If there is a dispute as to the division of the proceeds of~~
2 ~~forfeited property among participating law enforcement agencies,~~
3 ~~this issue must be determined by the judge. The proceeds from a sale~~
4 ~~of property, conveyances, and equipment must be disposed of~~
5 ~~pursuant to this section.~~

6 ~~—— (4) All property, conveyances, and equipment which will not~~
7 ~~be reduced to proceeds may be transferred to the law enforcement~~
8 ~~agency or agencies or to the prosecution agency. Upon agreement~~
9 ~~of the law enforcement agency or agencies and the prosecution~~
10 ~~agency, conveyances and equipment may be transferred to any other~~
11 ~~appropriate agency. Property transferred may not be used to~~
12 ~~supplant operating funds within the current or future budgets. If the~~
13 ~~property seized and forfeited is an aircraft or watercraft and is~~
14 ~~transferred to a state law enforcement agency or other state agency~~
15 ~~pursuant to the provisions of this subsection, its use and retainage~~
16 ~~by that agency is at the discretion and approval of the Department~~
17 ~~of Administration.~~

18 ~~—— (5) If a defendant or his attorney sends written notice to the~~
19 ~~petitioner or the seizing agency of his interest in the subject~~
20 ~~property, service may be made by mailing a copy of the petition to~~
21 ~~the address provided, and service may not be made by publication.~~
22 ~~In addition, service by publication may not be used for a person~~
23 ~~incarcerated in a Department of Corrections facility, a county~~
24 ~~detention facility, or other facility where inmates are housed for the~~
25 ~~county where the seizing agency is located. The seizing agency shall~~
26 ~~check the appropriate institutions after receiving an affidavit of~~
27 ~~nonservice before attempting service by publication.~~

28 ~~—— (6) Any forfeiture may be effected by consent order approved~~
29 ~~by the court without filing or serving pleadings or notices provided~~
30 ~~that all owners and other persons with interests in the property,~~
31 ~~including participating law enforcement agencies, entitled to notice~~
32 ~~under this section, except lienholders and agencies, consent to the~~
33 ~~forfeiture. Disposition of the property may be accomplished by~~
34 ~~consent of the petitioner and those agencies involved. Persons~~
35 ~~entitled to notice under this section may consent to some issues and~~
36 ~~have the judge determine the remaining issues.~~

37 ~~—— (7) Disposition of forfeited property under this section must be~~
38 ~~accomplished as follows:~~

39 ~~—— (a) Property forfeited under this subsection shall first be~~
40 ~~applied to payment to the victim. The return of the victim to his~~
41 ~~home country or other absence of the victim from the jurisdiction~~
42 ~~shall not prevent the victim from receiving compensation.~~

1 ~~——(b) The victim and the South Carolina Victim Compensation~~
2 ~~Fund shall each receive one fourth, and law enforcement shall~~
3 ~~receive one half of the value of the forfeited property.~~

4 ~~——(c) If no victim is named, or reasonable attempts to locate a~~
5 ~~named victim for forfeiture and forfeiture fails, then all funds shall~~
6 ~~revert to the South Carolina Victim Compensation Fund and law~~
7 ~~enforcement to be divided equally.~~

8 ~~——(d) If federal law enforcement becomes involved in the~~
9 ~~investigation, they shall equitably split the share local law~~
10 ~~enforcement receives under this section, if they request or pursue~~
11 ~~any of the forfeiture. The equitable split must be pursuant to 21~~
12 ~~U.S.C. Section 881(e)(1)(A) and (e)(3), 18 U.S.C. Section~~
13 ~~981(e)(2), and 19 U.S.C. Section 1616a.~~

14 ~~—(C)(1) An innocent owner, manager, or owner of a licensed rental~~
15 ~~agency or any common carrier or carrier of goods for hire may apply~~
16 ~~to the court of common pleas for the return of any item seized.~~
17 ~~Notice of hearing or rule to show cause accompanied by copy of the~~
18 ~~application must be directed to all persons and agencies entitled to~~
19 ~~notice. If the judge denies the application, the hearing may proceed~~
20 ~~as a forfeiture hearing.~~

21 ~~——(2) The court may return any seized item to the owner if the~~
22 ~~owner demonstrates to the court by a preponderance of the evidence:~~

23 ~~——(a) in the case of an innocent owner, that the person or entity~~
24 ~~was not a consenting party to, or privy to, or did not have knowledge~~
25 ~~of, the use of the property which made it subject to seizure and~~
26 ~~forfeiture; or~~

27 ~~——(b) in the case of a manager or an owner of a licensed rental~~
28 ~~agency, a common carrier, or a carrier of goods for hire, that any~~
29 ~~agent, servant, or employee of the rental agency or of the common~~
30 ~~carrier or carrier of goods for hire was not a party to, or privy to, or~~
31 ~~did not have knowledge of, the use of the property which made it~~
32 ~~subject to seizure and forfeiture.~~

33 ~~—If the licensed rental agency demonstrates to the court that it has~~
34 ~~rented the seized property in the ordinary course of its business and~~
35 ~~that the tenant or tenants were not related within the third degree of~~
36 ~~kinship to the manager or owner, or any agents, servants, or~~
37 ~~employees of the rental agency, then it is presumed that the licensed~~
38 ~~rental agency was not a party to, or privy to, or did not have~~
39 ~~knowledge of, the use of the property which made it subject to~~
40 ~~seizure and forfeiture.~~

41 ~~——(3) The lien of an innocent person or other legal entity,~~
42 ~~recorded in public records, shall continue in force upon transfer of~~
43 ~~title of any forfeited item, and any transfer of title is subject to the~~

1 lien, if the lienholder demonstrates to the court by a preponderance
2 of the evidence that he was not a consenting party to, or privy to, or
3 did not have knowledge of, the involvement of the property which
4 made it subject to seizure and forfeiture.

5 ~~—(D) A person who uses property or a conveyance in a manner
6 which would make the property or conveyance subject to forfeiture
7 except for innocent owners, rental agencies, lienholders, and the like
8 as provided for in this section, is guilty of a misdemeanor and, upon
9 conviction, must be imprisoned for not less than thirty days nor
10 more than one year, fined not more than five thousand dollars, or
11 both. The penalties prescribed in this section are cumulative and
12 must be construed to be in addition to any other penalty prescribed
13 by another provision of this article.~~

14
15 SECTION 9. Chapter 8, Title 16 of the 1976 Code is amended by
16 adding an appropriately numbers section after Section 16-8-250 to
17 read:

18
19 “Section 16-8-255. A person who violates a provision of this article
20 shall forfeit, jointly and severally, to the State, pursuant to the
21 remedies and procedures as provided in this article, any interest in,
22 security of, claim against, or property or contractual right of any
23 kind affording a source of influence over an enterprise which the
24 person has established, operated, controlled, conducted, or
25 participated in, in violation of this article, and any property
26 constituting, or derived from, any proceeds, including substitute
27 assets, which the person obtained, directly or indirectly, from a
28 violation of this article.”

29
30 SECTION 10. Section 16-8-260 of the 1976 Code is amended to
31 read:

32
33 (A)(4) Monies, pProperty, and conveyances and monies may be
34 seized by a law enforcement officer or agency and are subject to
35 forfeiture when the law enforcement officer or agency reasonably
36 believes that the money, property, or conveyance or money has been
37 used in a pattern of criminal gang activity or in the commission of a
38 criminal act or has been used for the purpose of benefiting,
39 promoting, or furthering the interests of a criminal gang. Monies,
40 pProperty, and conveyances and monies subject to forfeiture
41 pursuant to this chapter include:

42 (1) Any firearm, ammunition to be used in a firearm, or
43 dangerous weapon; ~~in the possession of a member of a criminal gang~~

1 may be seized by a law enforcement officer or agency when the law
2 enforcement officer or agency reasonably believes that the firearm,
3 ammunition to be used in a firearm, or dangerous weapon is or has
4 been used in a pattern of criminal gang activity or in the commission
5 of a criminal act for the purpose of benefiting, promoting, or
6 furthering the interests of a criminal gang.

7 (2) Any written or electronic communications, records, money,
8 negotiable instruments, or valuables; ~~and may be seized by a law~~
9 ~~enforcement officer or agency when the law enforcement officer or~~
10 ~~agency reasonably believes that the written or electronic~~
11 ~~communications, records, money, negotiable instruments, or~~
12 ~~valuables have been used in a pattern of criminal gang activity or~~
13 ~~have been used for the purpose of benefiting, promoting, or~~
14 ~~furthering the interests of a criminal gang.~~

15 (3) Any contraband, as defined in Section 16-8-230, or other
16 asset owned or titled in the name of the gang or an individual
17 reasonably believed to be a gang member ~~may be seized by a law~~
18 ~~enforcement officer or agency when the law enforcement officer or~~
19 ~~agency reasonably believes that the contraband or asset has been~~
20 ~~used in a pattern of criminal gang activity or has been used for the~~
21 ~~purpose of benefiting, promoting, or furthering the interests of a~~
22 ~~criminal gang.~~

23 (B) For purposes of monies, property, and conveyances and
24 monies subject to seizure and forfeiture pursuant to this chapter, the
25 procedures and requirements for seizure and forfeiture under
26 Chapter 53, Title 44 shall apply and, as to any conflicts, supersede
27 the provisions of this chapter. ~~The solicitor or another prosecuting~~
28 ~~attorney shall initiate, in a civil action, forfeiture proceedings by~~
29 ~~petition in a court of competent jurisdiction regarding any property~~
30 ~~seized pursuant to the provisions of this section within ninety days~~
31 ~~of seizure. The solicitor or another prosecuting attorney must~~
32 ~~provide notice of the filing of the petition to those criminal gang~~
33 ~~members who become known to law enforcement officials as a~~
34 ~~result of the seizure and any related arrests, and to any person~~
35 ~~learned by law enforcement officials to be the owner of any of the~~
36 ~~property involved. After initial notice of the filing of the petition,~~
37 ~~the court must ensure that all persons so notified continue to receive~~
38 ~~notice of all subsequent proceedings related to the property.~~

39 —(C) A person who claims an interest in any seized property, in
40 order to assert a claim that the property should not be forfeited, must
41 file a notice with the court, without the necessity of paying costs, of
42 the intent to establish either of the following:

1 — (1) that the person asserting the claim did not know and could
2 not have known of the property's use in the commission of a pattern
3 of criminal gang activity or in furthering the interests of the criminal
4 gang; or

5 — (2) that the law enforcement officer lacked the requisite
6 reasonable belief that the property was or would be used in the
7 commission of a pattern of criminal gang activity or in furtherance
8 of the interests of the criminal gang.

9 — (D) In any hearings held and determinations made, pursuant to
10 this section, the court may receive and consider, in making a
11 determination of reasonable cause, all evidence admissible in
12 determining reasonable or probable cause at a preliminary hearing
13 together with inferences arising from the evidence presented.

14 — (E) An acquittal or dismissal in a criminal proceeding must not
15 preclude civil proceedings under this section. However, for good
16 cause shown, on motion by the solicitor or another prosecuting
17 attorney, the court may stay civil forfeiture proceedings during the
18 criminal trial for a related criminal indictment or information
19 alleging a violation of this section. A stay is not available pending
20 an appeal.

21 — (F) Except as otherwise provided by this section, all proceedings
22 under this section are governed according to the common law, by
23 statutory provisions relating to civil remedies and procedures, and
24 the rules of civil procedure established for the circuit court.
25 Additionally, any action under the provisions of this section may be
26 consolidated with any other action or proceeding pursuant to this
27 section relating to the same property on motion of the solicitor or
28 prosecuting attorney.

29 — (G) The forfeiture provided for in this section must be decided by
30 the court. The hearing on the claim must be held within sixty days
31 after service of the petition, unless continued for good cause. The
32 solicitor or prosecuting attorney has the burden of proof to establish
33 by a preponderance of the evidence that the property is subject to
34 forfeiture.

35 — (H) A person who asserts a successful claim in accordance with
36 subsection (C) must be awarded the seized property by the court. All
37 property to which no claim is filed, or to which no successful claim
38 is made may be destroyed, sold at a public or private sale, retained
39 for use by the seizing agency, or transferred without charge to any
40 law enforcement agency of the State for use by the agency.

41
42 SECTION 11. Article 7 of Chapter 11, Title 16 of the 1976 Code is
43 amended by adding:

[]

1
2 “Section 16-11-790. For purposes of monies, property, and
3 conveyances and monies subject to seizure and forfeiture pursuant
4 to this chapter, the procedures and requirements for seizure and
5 forfeiture under Chapter 53, Title 44 shall apply and, as to any
6 conflicts, supersede the provisions of this chapter.”

7
8 SECTION 12. Article 9 of Chapter 11, Title 16 of the 1976 Code is
9 amended by adding:

10
11 “Section 16-11-960. For purposes of monies, property, and
12 conveyances and monies subject to seizure and forfeiture pursuant
13 to this chapter, the procedures and requirements for seizure and
14 forfeiture under Chapter 53, Title 44 shall apply and, as to any
15 conflicts, supersede the provisions of this chapter.”

16
17 SECTION 13. Chapter 15, Title 16 of the 1976 Code is amended by
18 adding an appropriately numbered section to read:

19
20 “Section 16-15-455. For purposes of monies, property, and
21 conveyances and monies subject to seizure and forfeiture pursuant
22 to this chapter, the procedures and requirements for seizure and
23 forfeiture under Chapter 53, Title 44 shall apply and, as to any
24 conflicts, supersede the provisions of this chapter.”

25
26 SECTION 14. Chapter 23, Title 16 of the 1976 Code is amended by
27 adding an appropriately numbered section to read:

28
29 “Section 16-23-790. For purposes of monies, property, and
30 conveyances and monies subject to seizure and forfeiture pursuant
31 to this chapter, the procedures and requirements for seizure and
32 forfeiture under Chapter 53, Title 44 shall apply and, as to any
33 conflicts, supersede the provisions of this chapter.”

34
35 SECTION 15. Section 16-27-55 of the 1976 Code is amended to
36 read:

37
38 (A) A person who violates a provision of this chapter shall forfeit,
39 jointly and severally, to the State, all monies, property, and
40 conveyances and monies subject to forfeiture under this section.

41 (B) Monies, pProperty, and conveyances and monies subject to
42 forfeiture pursuant to this chapter include ~~A person who violates a~~
43 ~~provision of this chapter is subject to forfeiture of:~~

1 (1) all property, both real and personal, which is knowingly
2 used to engage in a violation or to further a violation of this chapter;
3 and

4 (2) all monies, negotiable instruments, securities, or other
5 things of value furnished or intended to be furnished by a person to
6 engage in or further a violation of this chapter.

7 (C) For purposes of monies, property, and conveyances and
8 monies subject to seizure and forfeiture pursuant to this chapter, the
9 procedures and requirements for seizure and forfeiture under
10 Chapter 53, Title 44 shall apply and, as to any conflicts, supersede
11 the provisions of this chapter.

12 ~~(B) Property subject to forfeiture pursuant to the provisions of this~~
13 ~~chapter may be seized by the appropriate law enforcement agency~~
14 ~~with a warrant properly issued by a court with jurisdiction over the~~
15 ~~property. Property may be seized without a warrant if the:~~

16 ~~— (1) seizure is incident to an arrest or a search with a search~~
17 ~~warrant or an inspection under an administrative inspection warrant;~~

18 ~~— (2) property subject to seizure was the subject of a prior~~
19 ~~judgment in favor of the State in a criminal injunction or forfeiture~~
20 ~~proceeding pursuant to the provisions of this chapter;~~

21 ~~— (3) law enforcement agency has probable cause to believe that~~
22 ~~the property is directly or indirectly dangerous to health or safety;~~
23 ~~or~~

24 ~~— (4) law enforcement agency has probable cause to believe that~~
25 ~~the property was used or is intended to be used in violation of the~~
26 ~~provisions of this chapter.~~

27 ~~— (C) Forfeiture proceedings instituted pursuant to the provisions of~~
28 ~~this section are subject to the procedures and requirements for~~
29 ~~forfeiture as set out in Section 44-53-530.~~

30 ~~— (D) Property taken or detained pursuant to the provisions of this~~
31 ~~section is not subject to replevin but is considered to be in the~~
32 ~~custody of the law enforcement agency making the seizure subject~~
33 ~~only to an order of the court having jurisdiction over the forfeiture~~
34 ~~proceedings.~~

35 ~~— (E) For purposes of this section, when the seizure of property~~
36 ~~subject to forfeiture is accomplished as a result of a joint effort by~~
37 ~~more than one law enforcement agency, the law enforcement agency~~
38 ~~initiating the investigation is considered to be the agency making the~~
39 ~~seizure.~~

40 ~~— (F) A law enforcement agency seizing property pursuant to the~~
41 ~~provisions of this section shall take reasonable steps to maintain the~~
42 ~~property. Equipment and conveyances seized must be removed to~~
43 ~~an appropriate place for storage. Monies seized must be deposited~~

1 in an interest bearing account pending final disposition by the court
2 unless the seizing agency determines the monies to be of an
3 evidential nature and provides for appropriate security in another
4 manner.
5 —(G) When property, monies, negotiable instruments, securities, or
6 other things of value are seized pursuant to the provisions of
7 subsection (A), the law enforcement agency making the seizure,
8 within ten days or a reasonable period of time after the seizure, shall
9 submit a report to the appropriate prosecuting agency.
10 — (1) The report must include the following information:
11 ——— (a) a description of the property seized;
12 ——— (b) the circumstances of the seizure;
13 ——— (c) the present custodian and where the property is being
14 stored or its location;
15 ——— (d) the name of the owner of the property;
16 ——— (e) the name of any lienholders of the property; and
17 ——— (f) the seizing agency.
18 — (2) If the property is a conveyance, the report must include the:
19 ——— (a) make, model, serial number, and year of the conveyance;
20 ——— (b) person in whose name the conveyance is registered; and
21 ——— (c) name of any lienholders.
22 — (3) In addition to the report provided for in items (1) and (2) of
23 this subsection, the appropriate law enforcement agency shall
24 prepare for dissemination to the public, upon request, a report
25 providing the following information:
26 ——— (a) a description of the quantity and nature of the property
27 and money seized;
28 ——— (b) the seizing agency;
29 ——— (c) the make, model, and year of a conveyance; and
30 ——— (d) the law enforcement agency responsible for the property
31 or conveyance seized.
32 —(H) Property or conveyances seized by a law enforcement agency
33 may not be used by officers or employees of the agency for personal
34 purposes.
35 —(I)(1) An innocent owner or a manager or owner of a licensed
36 rental agency or a common carrier or carrier of goods for hire may
37 apply to the court of common pleas for the return of an item seized
38 pursuant to the provisions of this chapter. Notice of hearing or rule
39 to show cause accompanied by copy of the application must be
40 directed to all persons and agencies entitled to notice as provided in
41 Section 44-53-530. If the court denies the application, the hearing
42 may proceed as a forfeiture hearing held pursuant to the provisions
43 of Section 44-53-530.

1 ~~— (2) The court may return a seized item to the owner if the owner~~
2 ~~demonstrates to the court by a preponderance of the evidence:~~

3 ~~— (a) in the case of an innocent owner, that the person or entity~~
4 ~~was not a consenting party to, or privy to, or did not have knowledge~~
5 ~~of, the use of the property which made it subject to seizure and~~
6 ~~forfeiture; or~~

7 ~~— (b) in the case of a manager or an owner of a licensed rental~~
8 ~~agency, a common carrier, or a carrier of goods for hire, that an~~
9 ~~agent, servant, or employee of the rental agency or of the common~~
10 ~~carrier or carrier of goods for hire was not a party to, or privy to, or~~
11 ~~did not have knowledge of, the use of the property which made it~~
12 ~~subject to seizure and forfeiture.~~

13 ~~— (3) If the licensed rental agency demonstrates to the court that~~
14 ~~it has rented the seized property in the ordinary course of its business~~
15 ~~and that the tenant or tenants were not related within the third degree~~
16 ~~of kinship to the manager or owner, or any agents, servants, or~~
17 ~~employees of the rental agency, then it is presumed that the licensed~~
18 ~~rental agency was not a party to, or privy to, or did not have~~
19 ~~knowledge of, the use of the property which made it subject to~~
20 ~~seizure and forfeiture.~~

21 ~~— (4) The lien of an innocent person or other legal entity,~~
22 ~~recorded in public records, continues in force upon transfer of title~~
23 ~~of a forfeited item, and a transfer of title is subject to the lien if the~~
24 ~~lienholder demonstrates to the court by a preponderance of the~~
25 ~~evidence that he was not a consenting party to, or privy to, or did~~
26 ~~not have knowledge of, the involvement of the property which made~~
27 ~~it subject to seizure and forfeiture.~~

28
29 SECTION 16. Chapter 13, Title 17 of the 1976 Code is amended by
30 adding an appropriately numbered section to read:

31
32 “Section 17-13-180. For purposes of monies, property, and
33 conveyances and monies subject to seizure and forfeiture pursuant
34 to this chapter, the procedures and requirements for seizure and
35 forfeiture under Chapter 53, Title 44 shall apply and, as to any
36 conflicts, supersede the provisions of this chapter.”

37
38 SECTION 17. Chapter 15, Title 17 of the 1976 Code is amended by
39 adding an appropriately numbered section to read:

40
41 “Section 17-15-270. For purposes of monies, property, and
42 conveyances and monies subject to seizure and forfeiture pursuant
43 to this chapter, the procedures and requirements for seizure and

1 forfeiture under Chapter 53, Title 44 shall apply and, as to any
2 conflicts, supersede the provisions of this chapter.”

3
4 SECTION 18. Chapter 30, Title 17 of the 1976 Code is amended by
5 adding an appropriately numbered section to read:

6
7 “Section 17-30-150. For purposes of monies, property, and
8 conveyances and monies subject to seizure and forfeiture pursuant
9 to this chapter, the procedures and requirements for seizure and
10 forfeiture under Chapter 53, Title 44 shall apply and, as to any
11 conflicts, supersede the provisions of this chapter.”

12
13 SECTION 19. Chapter 13, Title 17 of the 1976 Code is amended by
14 adding an appropriately numbered section to read:

15
16 “Section 17-13-180. For purposes of monies, property, and
17 conveyances and monies subject to seizure and forfeiture pursuant
18 to this chapter, the procedures and requirements for seizure and
19 forfeiture under Chapter 53, Title 44 shall apply and, as to any
20 conflicts, supersede the provisions of this chapter.”

21
22 SECTION 20. Chapter 13, Title 17 of the 1976 Code is amended by
23 adding an appropriately numbered section to read:

24
25 “Section 17-13-180. For purposes of monies, property, and
26 conveyances and monies subject to seizure and forfeiture pursuant
27 to this Chapter, the procedures and requirements for seizure and
28 forfeiture under Chapter 53, Title 44 (44-53-510) shall apply and, as
29 to any conflicts, supersede the provisions of this Chapter.”

30
31 SECTION 21. Section 44-53-590 of the 1976 Code is repealed.

32
33 SECTION 22. This act takes effect upon approval by the
34 Governor.

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