

ASSEMBLY BILL

No. 2336

Introduced by Assembly Member McCarthy

February 23, 2006

An act to amend Section 11489 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2336, as introduced, McCarthy. Controlled substances: forfeiture: funds distribution.

Existing law generally provides that the interest of any registered owner of a boat, airplane, or vehicle which has been used as an instrument to facilitate the possession for sale or sale of specified amounts of specified controlled substances, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of specified controlled substance offenses are subject to forfeiture. Existing law provides that in all cases where the property is seized and forfeited to a state or local governmental entity and, where necessary, sold, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity to specified persons or entities for specified purposes, and the remaining funds shall be distributed 65% to the state, local, or state and local law enforcement entities that participated in the seizure; 10% to the prosecutorial agency which processes the forfeiture action; 24% to the General Fund; and 1% to a private nonprofit organization for the education and training of prosecutors and peace officers with respect to the seizure and forfeiture of assets.

This bill would revise the above distribution of the remaining funds to delete the 24% allocation to the General Fund and increase the

allocation to the state, local, or state and local law enforcement entities that participated in the seizure from 65% to 89%.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11489 of the Health and Safety Code is
2 amended to read:

3 11489. Notwithstanding Section 11502 and except as
4 otherwise provided in Section 11473, in all cases where the
5 property is seized pursuant to this chapter and forfeited to the
6 state or local governmental entity and, where necessary, sold by
7 the Department of General Services or local governmental entity,
8 the money forfeited or the proceeds of sale shall be distributed by
9 the state or local governmental entity as follows:

10 (a) To the bona fide or innocent purchaser, conditional sales
11 vendor, or mortgagee of the property, if any, up to the amount of
12 his or her interest in the property, when the court declaring the
13 forfeiture orders a distribution to that person.

14 (b) The balance, if any, to accumulate, and to be distributed
15 and transferred quarterly in the following manner:

16 (1) To the state agency or local governmental entity for all
17 expenditures made or incurred by it in connection with the sale of
18 the property, including expenditures for any necessary costs of
19 notice required by Section 11488.4, and for any necessary
20 repairs, storage, or transportation of any property seized under
21 this chapter.

22 (2) The remaining funds shall be distributed as follows:

23 (A) ~~Sixty-five~~ *Eighty-nine* percent to the state, local, or state
24 and local law enforcement entities that participated in the seizure
25 distributed so as to reflect the proportionate contribution of each
26 agency.

27 (i) Fifteen percent of the funds distributed pursuant to this
28 subparagraph shall be deposited in a special fund maintained by
29 the county, city, or city and county of any agency making the
30 seizure or seeking an order for forfeiture. This fund shall be used
31 for the sole purpose of funding programs designed to combat
32 drug abuse and divert gang activity, and shall wherever possible
33 involve educators, parents, community-based organizations and

1 local businesses, and uniformed law enforcement officers. Those
2 programs that have been evaluated as successful shall be given
3 priority. These funds shall not be used to supplant any state or
4 local funds that would, in the absence of this clause, otherwise be
5 made available to the programs.

6 It is the intent of the Legislature to cause the development and
7 continuation of positive intervention programs for high-risk
8 elementary and secondary schoolage students. Local law
9 enforcement should work in partnership with state and local
10 agencies and the private sector in administering these programs.

11 (ii) The actual distribution of funds set aside pursuant to clause
12 (i) is to be determined by a panel consisting of the sheriff of the
13 county, a police chief selected by the other chiefs in the county,
14 and the district attorney and the chief probation officer of the
15 county.

16 (B) Ten percent to the prosecutorial agency which processes
17 the forfeiture action.

18 ~~(C) Twenty-four percent to the General Fund. Notwithstanding~~
19 ~~Section 13340 of the Government Code, the moneys are hereby~~
20 ~~continuously appropriated to the General Fund. Commencing~~
21 ~~January 1, 1995, all moneys deposited in the General Fund~~
22 ~~pursuant to this subparagraph, in an amount not to exceed ten~~
23 ~~million dollars (\$10,000,000), shall be made available for school~~
24 ~~safety and security, upon appropriation by the Legislature, and~~
25 ~~shall be disbursed pursuant to Senate Bill 1255 of the 1993-94~~
26 ~~Regular Session, as enacted.~~

27 ~~(D) One percent to a private nonprofit organization composed~~
28 ~~of local prosecutors which shall use these funds for the exclusive~~
29 ~~purpose of providing a statewide program of education and~~
30 ~~training for prosecutors and law enforcement officers in ethics~~
31 ~~and the proper use of laws permitting the seizure and forfeiture of~~
32 ~~assets under this chapter.~~

33 (c) Notwithstanding Item 0820-101-469 of the Budget Act of
34 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to
35 the Department of Justice pursuant to subparagraph (A) of
36 paragraph (2) of subdivision (b) shall be deposited into the
37 Department of Justice Special Deposit Fund—State Asset
38 Forfeiture Account and used for the law enforcement efforts of
39 the state or for state or local law enforcement efforts pursuant to
40 Section 11493.

1 All funds allocated to the Department of Justice by the federal
2 government under its Federal Asset Forfeiture program
3 authorized by the Comprehensive Crime Control Act of 1984
4 may be deposited directly into the Narcotics Assistance and
5 Relinquishment by Criminal Offender Fund and used for state
6 and local law enforcement efforts pursuant to Section 11493.

7 Funds which are not deposited pursuant to the above paragraph
8 shall be deposited into the Department of Justice Special Deposit
9 Fund—Federal Asset Forfeiture Account.

10 (d) All the funds distributed to the state or local governmental
11 entity pursuant to subparagraphs (A) and (B) of paragraph (2) of
12 subdivision (b) shall not supplant any state or local funds that
13 would, in the absence of this subdivision, be made available to
14 support the law enforcement and prosecutorial efforts of these
15 agencies.

16 The court shall order the forfeiture proceeds distributed to the
17 state, local, or state and local governmental entities as provided
18 in this section.

19 For the purposes of this section, “local governmental entity”
20 means any city, county, or city and county in this state.

21 (e) This section shall become operative on January 1, 1994.