

ASSEMBLY BILL

No. 639

Introduced by Assembly Member Norby

February 16, 2011

An act to amend Section 11471 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 639, as introduced, Norby. Controlled substances.

Existing law provides that property subject to forfeiture in connection with specified violations of law pertaining to controlled substances may be seized by any peace officer upon process issued by any court having jurisdiction over the property, and that seizure without process may be made if any of certain specified situations exist.

This bill would make a technical, nonsubstantive change to those provisions.

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

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

- 1 SECTION 1. Section 11471 of the Health and Safety Code is
2 amended to read:
3 11471. Property *that is* subject to forfeiture under this division
4 may be seized by any peace officer upon process issued by any
5 court having jurisdiction over the property. Seizure without process
6 may be made if any of the following situations exist:
7 (a) The seizure is incident to an arrest or a search under a search
8 warrant.

- 1 (b) The property subject to seizure has been the subject of a
2 prior judgment in favor of the state in a criminal injunction or
3 forfeiture proceeding based upon this division.
- 4 (c) There is probable cause to believe that the property is directly
5 or indirectly dangerous to health or safety.
- 6 (d) There is probable cause to believe that the property was used
7 or is intended to be used in violation of this division.
- 8 (e) Real property subject to forfeiture may not be seized, absent
9 exigent circumstances, without notice to the interested parties and
10 a hearing to determine that seizure is necessary to preserve the
11 property pending the outcome of the proceedings. At the hearing,
12 the prosecution shall bear the burden of establishing that probable
13 cause exists for the forfeiture of the property and that seizure is
14 necessary to preserve the property pending the outcome of the
15 forfeiture proceedings. The court may issue seizure orders pursuant
16 to this section if it finds that seizure is warranted or pendente lite
17 orders pursuant to Section 11492 if it finds that the status quo or
18 value of the property can be preserved without seizure.
- 19 (f) Where business records are seized in conjunction with the
20 seizure of property subject to forfeiture, the seizing agency shall,
21 upon request, provide copies of the records to the person, persons,
22 or business entity from whom such records were seized.