
Introduced by Senator Mitchell

February 25, 2015

An act to amend 11471 of the Health and Safety Code, relating to forfeiture.

LEGISLATIVE COUNSEL'S DIGEST

SB 443, as introduced, Mitchell. Forfeiture: controlled substances.

Existing law subjects certain property to forfeiture, such as controlled substances and equipment used to process controlled substances. Existing law allows peace officers, under specified circumstances, to seize property that is subject to forfeiture.

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. (a) Property *that is* subject to forfeiture under this
- 4 division may be seized by any peace officer upon process issued
- 5 by any court having jurisdiction over the property. Seizure without
- 6 process may be made if any of the following situations exist:
- 7 (a)
- 8 (1) The seizure is incident to an arrest or a search under a search
- 9 warrant.
- 10 (b)

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