

609.5314 ADMINISTRATIVE FORFEITURE OF CERTAIN PROPERTY SEIZED IN CONNECTION WITH A CONTROLLED SUBSTANCES SEIZURE.

Subdivision 1. **Property subject to administrative forfeiture; presumption.** (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices; or

(iii) forfeitable records of manufacture or distribution of controlled substances;

(2) all conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152; and

(3) all firearms, ammunition, and firearm accessories found:

(i) in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;

(ii) on or in proximity to a person from whom a felony amount of controlled substance is seized; or

(iii) on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.

(b) The Department of Corrections Fugitive Apprehension Unit shall not seize items listed in paragraph (a), clauses (2) and (3), for the purposes of forfeiture.

(c) A claimant of the property bears the burden to rebut this presumption.

Subd. 2. **Administrative forfeiture procedure.** (a) Forfeiture of property described in subdivision 1 that does not exceed \$50,000 in value is governed by this subdivision. Within 60 days from when seizure occurs, all persons known to have an ownership, possessory, or security interest in seized property must be notified of the seizure and the intent to forfeit the property. In the case of a motor vehicle required to be registered under chapter 168, notice mailed by certified mail to the address shown in Department of Public Safety records is deemed sufficient notice to the registered owner. The notification to a person known to have a security interest in seized property required under this paragraph applies only to motor vehicles required to be registered under chapter 168 and only if the security interest is listed on the vehicle's title. Upon motion by the appropriate agency or the prosecuting authority, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(b) Notice may otherwise be given in the manner provided by law for service of a summons in a civil action. The notice must be in writing and contain:

(1) a description of the property seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English. This requirement does not preclude the appropriate agency from printing the notice in other languages in addition to English.

Substantially the following language must appear conspicuously in the notice:

"WARNING: You will automatically lose the above-described property and the right to be heard in court if you do not file a lawsuit and serve the prosecuting authority within 60 days. You may file your lawsuit in conciliation court if the property is worth \$15,000 or less; otherwise, you must file in district court. You may not have to pay a filing fee for your lawsuit if you are unable to afford the fee. You do not have to pay a conciliation court fee if your property is worth less than \$500."

(c) If notice is not sent in accordance with paragraph (a), and no time extension is granted or the extension period has expired, the appropriate agency shall return the property to the person from whom the property was seized, if known. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. The agency shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

Subd. 3. Judicial determination. (a) Within 60 days following service of a notice of seizure and forfeiture under this section, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority for that county, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. The claimant may serve the complaint on the prosecuting authority by any means permitted by court rules. If the value of the seized property is \$15,000 or less, the claimant may file an action in conciliation court for recovery of the seized property. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. The hearing must be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings. The district court administrator shall schedule the hearing as soon as practicable after the conclusion of the criminal prosecution. The proceedings are governed by the Rules of Civil Procedure.

(b) The complaint must be captioned in the name of the claimant as plaintiff and the seized property as defendant, and must state with specificity the grounds on which the claimant alleges the property was improperly seized and the plaintiff's interest in the property seized. Notwithstanding any law to the contrary, an action for the return of property seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(c) If the claimant makes a timely demand for judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under section 609.531, subdivision 6a. The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination.

(d) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized property, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211. If the court orders payment of these costs, they must be paid from forfeited money or proceeds from the sale of forfeited property from the appropriate law

enforcement and prosecuting agencies in the same proportion as they would be distributed under section 609.5315, subdivision 5.

History: *1988 c 665 s 14; 1989 c 290 art 3 s 31; 1991 c 323 s 2,3; 1993 c 326 art 1 s 8,9; 1997 c 213 art 2 s 5; 1999 c 225 s 3,4; 2005 c 136 art 13 s 14; 2010 c 391 s 14,15; 2011 c 76 art 1 s 67; 2012 c 128 s 18,19*