

**Enrolled**  
**House Bill 2403**

Sponsored by Representative COWAN (at the request of Oregon Narcotics Enforcement Association)

CHAPTER .....

AN ACT

Relating to forfeiture; creating new provisions; and amending ORS 131.550, 131.564, 131.588 and 131.602 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 131.550 to 131.600.**

**SECTION 2. (1) When a seizing agency lawfully seizes a motor vehicle with a hidden compartment, the agency shall disable the hidden compartment, unless the motor vehicle is forfeited and the agency:**

- (a) Retains the motor vehicle for law enforcement purposes; or**
- (b) Determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle.**

**(2) Notwithstanding ORS 131.594 or 131.597, if the motor vehicle with a hidden compartment is forfeited and the seizing agency:**

**(a) Retains the motor vehicle for law enforcement purposes, the agency shall deduct the cost of disabling the hidden compartment from the value of the motor vehicle before making the distribution described in ORS 131.594 or 131.597.**

**(b) Does not retain the motor vehicle for law enforcement purposes and determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle, the agency shall sell the motor vehicle for scrap or salvage and distribute the proceeds of the sale according to ORS 131.594 or 131.597. The seizing agency shall ensure that the person to whom the motor vehicle is sold disables the hidden compartment or the motor vehicle.**

**(3) If a motor vehicle with a hidden compartment is forfeited and the seizing agency sells the motor vehicle, the agency shall deduct the cost of disabling the hidden compartment from the proceeds of the sale under ORS 131.594 (1)(a) or 131.597 (1)(a).**

**SECTION 3. ORS 131.588 is amended to read:**

**131.588. (1) If no financial institution has filed the affidavit described in ORS 131.579 (1), and if the court has failed to uphold the claim or affidavit of any other person claiming an interest in the property, the effect of the judgment is that:**

**(a) Title to the property passes to the seizing agency free of any interest or encumbrance thereon in favor of any person who has been given notice;**

**(b) The seizing agency may transfer good and sufficient title to any subsequent purchaser or transferee, and all courts, the state and the departments and agencies of this state, and any political subdivision shall recognize the title. In the case of real property, the seizing agency shall warrant**

the title against constitutional defect. A warranty under this paragraph is limited to the purchase price of the real property; and

(c) Any department, agency or officer of this state or any political subdivision whose official functions include the issuance of certificates or other evidence of title is immune from civil or criminal liability when such issuance is pursuant to a judgment of criminal forfeiture.

(2) If an affidavit is filed by a financial institution under ORS 131.579 (1), or if a person files an affidavit under ORS 131.579 (2):

(a) The court shall foreclose all security interests, liens and vendor's interests of financial institutions and claimants as to which the court determines that there is a legal or equitable basis for foreclosure; and

(b) All other interests applicable to the property that are not foreclosed or otherwise eliminated through a judgment of foreclosure, if and to the extent that they are valid and subsisting, remain in effect and the property remains subject to them upon completion of the criminal forfeiture proceeding.

(3) Notwithstanding any other provision of law, if a financial institution or other person has filed an affidavit described in ORS 131.579, or if the court has upheld the claim of any claimant, then as to each item of property seized:

(a) If the court has determined that the property should not be forfeited and has not foreclosed the security interests, liens or other interests covering the property, the court shall render judgment in favor of the owner of the property, the property must be returned to the owner and all security interests, liens and other interests applicable to the property remain in effect as though the property had never been seized. **If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.** Upon the return of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure.

(b) If the court has determined that the property should not be forfeited and has foreclosed one or more interests covering the property, including security interests or liens covering the property or contracts for the transfer or conveyance of the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court within such time as may be prescribed by the court following entry of the judgment. If any interests covering the property have not been foreclosed, including any liens or security interests of a claimant whose claim has been upheld, or of a financial institution that has filed the affidavit described in ORS 131.579, the property must be sold subject to those interests. The judgment shall order the proceeds of the sale applied in the following order:

(A) To the payment of the costs of the sale;

**(B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;**

~~[(B)]~~ (C) To the satisfaction of the foreclosed liens, security interests and contracts in order of their priority; and

~~[(C)]~~ (D) The excess, if any, to the owner of the property.

(c) If the court has determined that the property should be forfeited and has foreclosed one or more security interests, liens, contracts or other interests covering the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court. If any interest in the property was claimed by a financial institution or other claimant and the interest was upheld but not foreclosed, the property must be sold subject to the interest. The sale of the property must be held within such time

as may be prescribed by the court following entry of the judgment. The judgment shall also order the proceeds of such sale applied in the following order:

(A) To the payment of the costs of the sale;

**(B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;**

~~[(B)]~~ (C) To the satisfaction of the foreclosed liens, security interests and contracts in the order of their priority; and

~~[(C)]~~ (D) The excess, if any, to the seizing agency to be disposed of as provided in ORS 131.594 or 131.597.

(d) If the court has determined that the property should be forfeited and has not foreclosed the interests of any party in the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The court shall enter a judgment awarding the property to the seizing agency, subject to the interests of any claimants whose claims or affidavits were upheld by the court, and subject to the interests of any financial institutions that filed affidavits under ORS 131.579 (1), that remain in full force and effect. **If the property is a motor vehicle with a hidden compartment, the interests of any claimants or financial institutions shall be reduced on a pro rata basis by the cost of disabling the hidden compartment.**

(4) The court may include in the judgment of criminal forfeiture an order that directs the seizing agency to distribute to the victim of the crime of conviction a portion of any proceeds from property received by the seizing agency if:

(a) The crime of conviction was a person felony or person Class A misdemeanor as those terms are defined by rule of the Oregon Criminal Justice Commission; and

(b) The court included an order of restitution in the criminal judgment.

(5) The seizing agency is not liable to any person as a consequence of obedience to a judgment directing conveyance to a financial institution.

(6) The forfeiture counsel shall send a copy of the judgment to the Asset Forfeiture Oversight Advisory Committee.

(7)(a) On entry of judgment for a claimant in any proceeding to forfeit property under ORS 131.550 to 131.600, unless the court has foreclosed one or more security interests, liens or other interests covering the property, the property or interest in property must be returned or conveyed immediately to the claimant designated by the court.

(b) If it appears that there was reasonable suspicion that the property was subject to criminal forfeiture, the court shall cause a finding to be entered and no claimant or financial institution is entitled to damages nor is the person who made the seizure, the seizing agency or forfeiture counsel liable to suit or judgment on account of the seizure or action. An order directing seizure issued under ORS 131.561 constitutes a finding of reasonable suspicion that the property was subject to criminal forfeiture.

**(8) Except for deficiencies resulting from disabling a hidden compartment in a motor vehicle with a hidden compartment,** nothing in this section prevents a claimant or financial institution from obtaining any deficiency to which the claimant or financial institution would otherwise be entitled.

(9) Nothing in this section or in ORS 131.564 prevents a seizing agency from entering into an agreement with a claimant or other person for the reimbursement of the seizing agency for the costs and expenses relating to towing and storage of property or the cost of discharging any possessory chattel lien on the property arising under ORS 87.152 to 87.162 that attached to the property in the period between the seizure of the property and the release or criminal forfeiture of the property.

**SECTION 4.** ORS 131.564 is amended to read:

131.564. (1)(a) Except as otherwise provided in ORS 131.550 to 131.600, property seized for criminal forfeiture is not subject to replevin, conveyance, sequestration or attachment. The seizure of property or the commencement of a criminal forfeiture proceeding under ORS 131.550 to 131.600

does not abate, impede or in any way delay the initiation or prosecution of a suit or action by a financial institution for the possession of seized property in which the financial institution has or purports to have a lien or security interest or for the foreclosure of such lien or security interest. A financial institution may proceed with any suit or action involving property in which it has a lien or security interest even though a seizure has occurred and criminal forfeiture proceedings have been or will be commenced. If property that may be subject to criminal forfeiture is sold prior to the conclusion of the forfeiture proceedings, the sheriff, trustee or other person who is conducting the sale and who has actual notice of the forfeiture proceedings shall distribute the sale proceeds as follows:

(A) To the expenses of the sale;

**(B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;**

~~[(B)]~~ (C) To the payment of the obligations owed to the foreclosing financial institution that are secured by the property and to any other person whose lien or security interest in the property has been foreclosed in the suit or action in the order determined by the court; and

~~[(C)]~~ (D) The surplus, if any, shall be distributed to the seizing agency, or to the court in which the forfeiture proceedings are pending.

(b) The sheriff, trustee or other person who distributes the sale proceeds as provided in this subsection is not liable to any person who has or asserts an interest in the property.

(2) Within 30 days following seizure of property for criminal forfeiture, the seizing agency, in consultation with the district attorney of the county in which the property was seized for forfeiture, shall determine whether it will seek the forfeiture of the property. If the seizing agency elects not to seek forfeiture, it shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens arising under ORS 87.152 to 87.162 that have attached to the property since its seizure and release the property. The property may be released to a person other than the person from whose custody or control the property was taken if the seizing agency or forfeiture counsel first mails to the last-known addresses of all persons known to have an interest in the property a notice of intent to release the property. The notice must specify the person to whom the property is to be released and must detail the time and place of the release. An agency that complies with the provisions of this subsection by paying costs and expenses of towing and storage, discharging possessory liens, mailing any required notices and releasing the property is not liable for its actions under this subsection or for any consequences thereof. **If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.**

(3) A seizing agency shall, pending criminal forfeiture and final disposition and subject to the need to retain the property in any criminal proceeding, provide that property in the physical custody of the seizing agency be serviced or maintained as may be reasonably appropriate to preserve the value of the property.

(4) A seizing agency may, pending criminal forfeiture and final disposition and subject to the need to retain seized property in any criminal proceeding:

(a) Provide that the seized property be transferred for criminal forfeiture to any city, county, state or federal agency with criminal forfeiture authority, provided that no such transfer may have the effect of diminishing or reducing the rights of any third party under ORS 131.550 to 131.600.

(b) Apply to the court for an order providing that the seized property may be sold, leased, rented or operated in the manner and on the terms that may be specified in the court's order. The court shall deny any application unless the sale, lease, rental or operation of the property will be conducted in a commercially reasonable manner and will not result in a material reduction of the property's value. The court may enter an order only:

(A) After notice and opportunity to be heard is provided to all persons known to have or to claim an interest in the property; and

(B) With the consent of all persons holding security interests of record in the property.

(c) Provide that the seized property be removed to a storage area for safekeeping.

(5) Unless otherwise ordered by the court, the seizing agency shall hold the proceeds of the sale, leasing, renting or operation under subsection (4) of this section and the rights of holders of security interests of record in the property attach to the proceeds of the sale, leasing, renting or operation in the same order of priority as interests attached to the property.

(6)(a) Except as provided in paragraph (b) of this subsection and except for currency with apparent or known intrinsic collector value, all cash seized for criminal forfeiture, together with all cash received from the sale, leasing, renting or operation of the property, must be immediately deposited in an insured interest-bearing forfeiture trust account or accounts maintained by the seizing agency exclusively for this purpose. Cash may be retained as evidence in a criminal proceeding but must be deposited immediately when the need to retain it as evidence is discharged.

(b) Notwithstanding paragraph (a) of this subsection, all cash seized for criminal forfeiture that at the time of seizure is deposited in any form of account in a financial institution may remain in the account in the financial institution. From the time of seizure until the criminal forfeiture proceeding is abandoned, or until a court ultimately enters a judgment granting or denying criminal forfeiture or enters a judgment of dismissal, all deposits except the deposit of interest by the financial institution, withdrawals or other transactions involving the account are prohibited, unless approved by the court.

(c) Subject to any court order, interest earned upon cash deposited in a forfeiture trust account or held in an account in a financial institution under this subsection must be disbursed as follows:

(A) If the criminal forfeiture proceeding is abandoned, or if the court ultimately enters a judgment denying criminal forfeiture or a judgment of dismissal, the seizing agency shall pay any interest earned, together with the cash deposited in the forfeiture trust account in connection with the seizure in question, to the person from whom it was seized, and the seizing agency shall release any interest earned, together with the cash deposited in an account in a financial institution, to the person from whom it was seized.

(B) If a judgment of criminal forfeiture is entered, but parties other than the seizing agency establish rights to portions of the amount that are in the aggregate larger than or equal to the cash on deposit plus interest earned thereon, the seizing agency shall disburse the interest, together with the cash on deposit, to the parties in the order of their priority.

(C) If a judgment of criminal forfeiture is entered and the total amount arising out of the seizure that is on deposit in the forfeiture trust account or in an account in a financial institution, including interest earned on moneys deposited, is greater than the aggregate amount needed to satisfy the established interests of security interest holders, lienholders and other claimants, the seizing agency shall retain the balance remaining after payment by the seizing agency to parties.

(7) If the property seized for criminal forfeiture consists of stocks, bonds, promissory notes or other security or evidence of indebtedness, and the property is held in some form of account in a financial institution, the property may remain in the account pending a final decision in the criminal forfeiture proceedings. Unless otherwise allowed by order of the court, no transactions involving the account may be permitted other than the deposit or reinvestment of dividends or other normally recurring payments on the property. Any accrual to the value of the property during the pendency of criminal forfeiture proceedings must be disbursed in the manner provided for the disbursement of interest under subsection (6) of this section.

(8) When property has been seized for criminal forfeiture or a notice of criminal forfeiture has been filed, an owner of or interest holder in the property may file a motion seeking an order to show cause. The motion must be filed no later than 15 days after the owner or interest holder received notice or actual knowledge of the seizure, whichever is earlier. At the time a person files a motion under this subsection, the person must serve a copy of the motion on the forfeiture counsel and the defendant, if any. When a motion is filed under this subsection, the court shall issue an order to show cause to the seizing agency for a hearing on the sole issue of whether probable cause for criminal forfeiture of the property exists. If the court finds that there is no probable cause for criminal forfeiture of the property, the property seized for criminal forfeiture or subjected to the notice of criminal forfeiture must be released pending the outcome of a judicial proceeding under

ORS 131.582. As used in this subsection, “owner” or “interest holder” does not include the defendant.

**SECTION 5.** ORS 131.550 is amended to read:

131.550. As used in ORS 131.550 to 131.600:

(1) “Acquiesce in prohibited conduct” means that a person knew of the prohibited conduct and knowingly failed to take reasonable action under the circumstances to terminate or avoid the use of the property in the course of prohibited conduct. For purposes of this subsection, “reasonable action under the circumstances” includes, but is not limited to:

- (a) Reporting the prohibited conduct to a law enforcement agency;
- (b) Commencing action that will assert the rights of the affiant as to the property interest;
- (c) Terminating a rental agreement; or
- (d) Seeking an abatement order under the provisions of ORS 105.505 to 105.520 or 105.550 to 105.600 or under any ordinance or regulation allowing abatement of nuisances.

(2) “All persons known to have an interest” means:

(a) Any person who has, prior to the time the property is seized for criminal forfeiture, filed notice of interest with any public office as may be required or permitted by law to be filed with respect to the property that has been seized for criminal forfeiture;

(b) Any person from whose custody the property was seized; or

(c) Any person who has an interest in the property, including all owners and occupants of the property, whose identity and address is known or is ascertainable upon diligent inquiry and whose rights and interest in the property may be affected by the action.

(3) “Attorney fees” has the meaning given that term in ORCP 68 A.

(4) “Financial institution” means any person lawfully conducting business as:

(a) A financial institution or trust company, as those terms are defined in ORS 706.008;

(b) A consumer finance company subject to the provisions of ORS chapter 725;

(c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mortgage servicing company or other mortgage company;

(d) An officer, agency, department or instrumentality of the federal government, including but not limited to:

(A) The Secretary of Housing and Urban Development;

(B) The Federal Housing Administration;

(C) The United States Department of Veterans Affairs;

(D) Rural Development and the Farm Service Agency of the United States Department of Agriculture;

(E) The Federal National Mortgage Association;

(F) The Government National Mortgage Association;

(G) The Federal Home Loan Mortgage Corporation;

(H) The Federal Agricultural Mortgage Corporation; and

(I) The Small Business Administration;

(e) An agency, department or instrumentality of this state, including but not limited to:

(A) The Housing and Community Services Department;

(B) The Department of Veterans’ Affairs; and

(C) The Public Employees Retirement System;

(f) An agency, department or instrumentality of any municipality in this state, including but not limited to such agencies as the Portland Development Commission;

(g) An insurer as defined in ORS 731.106;

(h) A private mortgage insurance company;

(i) A pension plan or fund or other retirement plan; and

(j) A broker-dealer or investment adviser representative as defined in ORS 59.015.

(5) “Forfeiture counsel” means an attorney designated to represent a seizing agency in criminal forfeiture actions or proceedings.

(6) "Instrumentality" means property that is used or intended for use in prohibited conduct or that facilitates prohibited conduct.

(7) "Law enforcement agency" means any agency that employs police officers or prosecutes criminal cases.

**(8) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360 that has had the vehicle's original design modified by a person other than the manufacturer to create a container, space or enclosure for the purpose of concealing, hiding or otherwise preventing discovery of its contents and that is used or intended to be used to facilitate the commission of a criminal offense.**

[8] (9) "Official law enforcement use" means a use that may reasonably be expected to result in the identification, apprehension or conviction of criminal offenders.

[9] (10) "Police officer" has the meaning given that term in ORS 133.525.

[10] (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from, maintained by or realized through an act or omission that constitutes prohibited conduct, and includes any benefit, interest or property of any kind without reduction for expenses of acquiring or maintaining it or incurred for any other reason.

[11] (12) "Prohibited conduct" means:

(a) For purposes of proceeds, a felony or a Class A misdemeanor.

(b) For purposes of instrumentalities, any crime listed in ORS 131.602.

[12] (13) "Property" means any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.

[13] (14) "Seizing agency" means a law enforcement agency that has seized property for criminal forfeiture.

[14] (15) "Weapon" means any instrument of offensive or defensive combat or anything used, or designed to be used, to destroy, defeat or injure a person.

**SECTION 6. Section 7 of this 2009 Act is added to and made a part of sections 1 to 51, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**

**SECTION 7. (1) When a seizing agency lawfully seizes a motor vehicle with a hidden compartment, the agency shall disable the hidden compartment, unless the motor vehicle is forfeited and the agency:**

**(a) Retains the motor vehicle for law enforcement purposes; or**

**(b) Determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle.**

**(2) Notwithstanding sections 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), if the motor vehicle with a hidden compartment is forfeited and the seizing agency:**

**(a) Retains the motor vehicle for law enforcement purposes, the agency shall deduct the cost of disabling the hidden compartment from the value of the motor vehicle before making the distribution described in sections 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**

**(b) Does not retain the motor vehicle for law enforcement purposes and determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle, the agency shall sell the motor vehicle for scrap or salvage and distribute the proceeds of the sale according to sections 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356). The seizing agency shall ensure that the person to whom the motor vehicle is sold disables the hidden compartment or the motor vehicle.**

**(3) If a motor vehicle with a hidden compartment is forfeited and the seizing agency sells the motor vehicle, the agency shall deduct the cost of disabling the hidden compartment from the proceeds of the sale as a cost of prosecuting the case under section 43 (3) and 44 (2), chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**

**SECTION 8. Section 1, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:**

**Sec. 1.** As used in sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act]:

(1) "All persons known to have an interest" means:

(a) Any person who filed a notice of interest for seized property with any public office, in the manner required or permitted by law, before the property was seized for forfeiture;

(b) Any person from whose custody property is seized for forfeiture; and

(c) Any person who has an interest in property seized for forfeiture, including all owners and occupants of the property, whose identity and address is known or is ascertainable upon diligent inquiry and whose rights and interest in the property may be affected by the action.

(2) "Attorney fees" has the meaning given that term in ORCP 68 A.

(3) "Financial institution" means any person lawfully conducting business as:

(a) A financial institution or trust company, as those terms are defined in ORS 706.008;

(b) A consumer finance company subject to the provisions of ORS chapter 725;

(c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mortgage servicing company or other mortgage company;

(d) An officer, agency, department or instrumentality of the federal government, including but not limited to:

(A) The Secretary of Housing and Urban Development;

(B) The Federal Housing Administration;

(C) The United States Department of Veterans Affairs;

(D) Rural Development and the Farm Service Agency of the United States Department of Agriculture;

(E) The Federal National Mortgage Association;

(F) The Government National Mortgage Administration;

(G) The Federal Home Loan Mortgage Corporation;

(H) The Federal Agricultural Mortgage Corporation; and

(I) The Small Business Administration;

(e) An agency, department or instrumentality of the state, including but not limited to:

(A) The Housing Agency;

(B) The Department of Veterans' Affairs; and

(C) The Public Employees Retirement System;

(f) An agency, department or instrumentality of any local government, as defined by ORS 174.116 or special government body, as defined by ORS 174.117, including but not limited to such agencies as the Portland Development Commission;

(g) An insurer as defined in ORS 731.106;

(h) A private mortgage insurance company;

(i) A pension plan or fund or other retirement plan; and

(j) A broker-dealer or investment adviser as defined in ORS 59.015.

(4) "Forfeiting agency" means a public body that is seeking forfeiture of property under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act].

(5) "Forfeiture counsel" means an attorney designated by a forfeiting agency to represent the forfeiting agency in forfeiture proceedings.

(6) "Forfeiture proceeds" means all property that has been forfeited in a proceeding under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], including money, earnings from forfeited property and amounts realized from the sale of forfeited property.

(7) "Instrumentality" has the meaning given in ORS 131.550.

(8) "Law enforcement agency" means any agency that employs police officers or prosecutes criminal cases.

**(9) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360 that has had the vehicle's original design modified by a person other than the manufacturer to create a container, space or enclosure for the purpose of concealing, hiding or**



**otherwise preventing discovery of its contents and that is used or intended to be used to facilitate the commission of a criminal offense.**

[(9)] (10) "Police officer" has the meaning given that term in ORS 133.525.

[(10)] (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from prohibited conduct, or maintained by or realized through prohibited conduct. "Proceeds of prohibited conduct" includes any benefit, interest or property of any kind, without reduction for expenses of acquiring or maintaining the property.

[(11)] (12) "Prohibited conduct" means:

(a) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a provision of ORS 475.005 to 475.285 and 475.805 to 475.980 when the conduct constitutes the commission of a crime as described in ORS 161.515; and

(b) Other conduct that constitutes the commission of a crime as described in ORS 161.515, that provides for civil forfeiture of proceeds or instrumentalities of the conduct and that is made subject to the provisions of sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] under section 2 (4), **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] or other law.

[(12)] (13) "Property" means any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.

[(13)] (14) "Public body" has the meaning given in ORS 174.109.

[(14)] (15) "Seizing agency" means a law enforcement agency that has seized property for forfeiture.

[(15)] (16) "Weapon" means any instrument of offensive or defensive combat or anything used, or designed to be used, in destroying, defeating or injuring a person.

**SECTION 9.** Section 12, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 12.** (1) Seizure of property for forfeiture and other proceedings under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] does not prevent, abate or delay the initiation or prosecution of a suit or action by a financial institution for the possession of seized property in which the financial institution claims a lien or security interest, or initiation or prosecution of a suit or action by a financial institution for the foreclosure of a lien or security interest claimed by the financial institution. A financial institution may proceed with any suit or action involving property in which the institution claims a lien or security interest even though a seizure has occurred and a forfeiture action has been commenced or will be commenced. The financial institution's suit or action may be consolidated with the forfeiture action for the purpose of trial. If seized property is sold before the conclusion of the forfeiture action, the sheriff, trustee or other person who is conducting the sale and who has actual notice of the forfeiture action shall distribute the sale proceeds as follows:

(a) To the payment of the expenses of the sale.

**(b) If the property is a motor vehicle with a hidden compartment, after making the payment required by paragraph (a) of this subsection, to reimburse the seizing agency for the cost of disabling the hidden compartment.**

[(b)] (c) After payment of the expenses of the sale **and making any reimbursement under paragraphs (a) and (b) of this subsection**, to the payment of the obligations owed to the foreclosing financial institution that are secured by the property, and to the payment of the obligations owed to any other person that has a lien or security interest in the property that has been foreclosed in the suit or action. Payment under this paragraph shall be made in the order determined by the court.

[(c)] (d) If there is any remaining amount after the payments required under paragraphs (a) [and (b)] **to (c)** of this subsection, [the remaining amount shall be distributed] to the seizing or forfeiting agency, or to the court in which the forfeiture action is pending.

(2) A sheriff, trustee or other person who distributes sale proceeds as provided in subsection (1) of this section is not liable to any person who has or asserts an interest in the property.

**SECTION 10.** Section 17, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 17.** (1) A seizing agency, after consultation with the district attorney of the county in which the property was seized, must decide whether to seek forfeiture of seized property not more than 30 days after the property is seized. If the seizing agency elects not to seek forfeiture, the agency shall pay all costs and expenses relating to towing and storage of the property, and shall release the property and cause to be discharged any possessory chattel liens arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. **If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.**

(2) Property may be released under this section to a person other than the person from whose custody or control the property was taken if the seizing agency mails notice to the last-known addresses of all persons known to have an interest in the property. The notice shall specify the person to whom the property is to be released and shall detail the time and place of the release.

**SECTION 11.** Section 24, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 24.** (1) An order restoring custody of property to a petitioner under section 22 or 23, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] shall:

(a) Prohibit the petitioner from using the property in unlawful conduct of any kind, or from allowing the property to be used by any other person in unlawful conduct;

(b) Require the petitioner to service and maintain the property as may be reasonably appropriate to preserve the property's value; and

(c) Require the petitioner to inform the court of the exact location of the property at the time of any trial in a forfeiture action and to deliver the property to the forfeiting agency immediately upon the issuance of a judgment of forfeiture.

(2) An order restoring custody of property to a petitioner under section 22 or 23, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] may include such other requirements as the court finds appropriate pending a final determination as to the disposition of the property. **If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.**

(3) An order restoring custody of property to a petitioner under section 22 or 23, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] is enforceable by a contempt proceeding brought on the relation of forfeiture counsel, by an order directing the petitioner to deliver the property to the custody of the forfeiting agency, by an order awarding to the forfeiting agency its reasonably incurred attorney fees, costs and investigative expenses, and by such other remedies or relief as the court may find appropriate.

**SECTION 12.** Section 31, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 31.** (1) If a responsive pleading or affidavit is filed under section 28 or 29, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], the court shall foreclose all security interests, liens and vendor's interests in the property, including contracts for the transfer or conveyance of the property, for which the court determines that there is a legal or equitable basis for foreclosure.

(2) **Except for deficiencies resulting from disabling a hidden compartment in a motor vehicle with a hidden compartment**, foreclosure of a security interest, lien or vendor's interest under this section does not prevent a claimant from obtaining any deficiency to which the claimant would otherwise be entitled under the law.

**SECTION 13.** Section 38, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 38.** (1) If a judgment forfeiting property is entered, and the judgment finds against all claimants who have filed a responsive pleading or affidavit under section 28 or 29, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], title to the forfeited property passes to the forfeiting agency free of any interest or encumbrance in favor of a person who has been given notice of the proceedings.

(2) If the court has determined that the property should be forfeited and has not foreclosed the interests of any party in the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall enter a judgment forfeiting the property to the forfeiting agency, subject to the interests of any claimants for whom judgment was entered. **If the property is a motor vehicle with a hidden compartment, the interests of any claimants or financial institutions shall be reduced on a pro rata basis by the cost of disabling the hidden compartment.**

(3) If a judgment forfeiting property is entered, all valid interests in the property that are not foreclosed or otherwise extinguished under the judgment remain in effect.

**SECTION 14.** Section 39, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 39.** (1) Except as provided in subsection (2) of this section, if a judgment is entered for a claimant in a proceeding under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], the claimant's property or interest in the property shall be returned or conveyed immediately to the claimant. All security interests, liens and other interests applicable to the property shall remain in effect as though the property had never been seized. Upon the return of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The court shall award costs, disbursements and attorney fees in the manner provided by ORCP 68 to the prevailing claimant, to be paid by the forfeiting agency. **If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.**

(2) If a judgment is entered for a claimant in a proceeding under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], but the court has foreclosed one or more interests in the property under section 31, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], the seizing agency shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The judgment shall require that the property then be sold, pursuant to a sheriff's sale or other sale authorized by the court, within such time as may be prescribed by the court. The property shall be sold subject to any interests in the property that have not been foreclosed, including any liens or security interests of a claimant whose claim has been upheld or of a financial institution that has filed the affidavit described in section 29 (1), **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act]. The judgment shall require that the proceeds of the sale be applied as follows:

(a) The proceeds shall first be used to pay the costs of the sale.

(b) **If the property is a motor vehicle with a hidden compartment, after making the payment required by paragraph (a) of this subsection, the proceeds shall be used to reimburse the seizing agency for the cost of disabling the hidden compartment.**

[(b)] (c) After payment of the costs of the sale **and making any reimbursement required under paragraphs (a) and (b) of this subsection**, the proceeds shall be applied to the satisfaction of the foreclosed liens, security interests and contracts in the order of their priority.

[(c)] (d) After making the payments required under paragraphs (a) [and (b)] **to (c)** of this subsection, any remaining amounts shall be paid to the claimant.

**SECTION 15.** Section 43, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 43.** (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by [section 1 (11)(a) of this 2009 Act] **section 1 (12)(a), chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**

(2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement, under ORS chapter 190, with the county in which the property was seized to provide a portion of the forfeiture proceeds to the county.

(3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, **the cost of disabling a hidden compartment in a motor vehicle** and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection.

(4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the State Commission on Children and Families Account established by ORS 417.733 for disbursement to relief nurseries as described in ORS 417.788.

(5) If the forfeiting agency has entered into an agreement with a county under subsection (2) of this section, after paying costs under subsection (3) of this section and making the deductions required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts required by the agreement.

(6) After making all payments and deductions required by subsections (3), (4) and (5) of this section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received by a county under subsection (5) of this section or by a any other public body under an intergovernmental agreement entered into under section 42, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools;

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment; and

(e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney.

(7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(8) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (4) of this section must be made

once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

**SECTION 16.** Section 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), is amended to read:

**Sec. 44.** (1) The provisions of this section apply only when the forfeiting agency is the state, and apply only to forfeiture proceeds arising out of prohibited conduct as defined by [section 1 (11)(a) of this 2009 Act] **section 1 (12)(a), chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**

(2) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, **the cost of disabling a hidden compartment in a motor vehicle** and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection. Any amount paid to or retained by the Department of Justice under this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this subsection shall be deposited in the State Police Account.

(3) After payment of costs under subsection (2) of this section, the forfeiting agency shall:

(a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);

(b) Deduct an amount equal to three percent of the forfeiture proceeds, not to exceed \$50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account;

(c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for disbursement to drug court programs as described in ORS 3.450; and

(d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the State Commission on Children and Families Account established by ORS 417.733 for disbursement to relief nurseries as described in ORS 417.788.

(4) If the forfeiting agency has entered into an intergovernmental agreement with another public body under section 42, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act], or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(5) After making all payments and deductions required by subsections (2), (3) and (4) of this section, the forfeiting agency shall distribute the remaining forfeiture proceeds as follows:

(a) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining forfeiture proceeds, and forfeiture proceeds received by the Department of Justice under subsection (4) of this section, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.

(B) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(b) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under subsection (4) of this section, shall be divided between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:

(A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police Account.

(B) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(C) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(D) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.

(E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.

(6) Forfeiture proceeds distributed under subsection (5) of this section may be used only for:

(a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;

(b) Currency for undercover law enforcement operations;

(c) Drug awareness and drug education programs offered in middle schools and high schools; and

(d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.

(7) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (3) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection.

**SECTION 17.** ORS 131.602 is amended to read:

131.602. The crimes to which ORS 131.550 [(11)(b)] (12)(b) applies are:

(1) Bribe giving, as defined in ORS 162.015.

(2) Bribe receiving, as defined in ORS 162.025.

(3) Public investment fraud, as defined in ORS 162.117.

(4) Bribing a witness, as defined in ORS 162.265.

(5) Bribe receiving by a witness, as defined in ORS 162.275.

(6) Simulating legal process, as defined in ORS 162.355.

(7) Official misconduct in the first degree, as defined in ORS 162.415.

(8) Custodial interference in the second degree, as defined in ORS 163.245.

(9) Custodial interference in the first degree, as defined in ORS 163.257.

(10) Buying or selling a person under 18 years of age, as defined in ORS 163.537.

(11) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.

(12) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.

(13) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.

(14) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.

(15) Possession of materials depicting sexually explicit conduct of a child in the first degree, as defined in ORS 163.688.

(16) Possession of materials depicting sexually explicit conduct of a child in the second degree, as defined in ORS 163.689.

(17) Theft in the second degree, as defined in ORS 164.045.

(18) Theft in the first degree, as defined in ORS 164.055.

(19) Aggravated theft in the first degree, as defined in ORS 164.057.

(20) Theft by extortion, as defined in ORS 164.075.

- (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- (26) Laundering a monetary instrument, as defined in ORS 164.170.
- (27) Engaging in a financial transaction in property derived from unlawful activity, as defined in ORS 164.172.
- (28) Burglary in the second degree, as defined in ORS 164.215.
- (29) Burglary in the first degree, as defined in ORS 164.225.
- (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- (32) Arson in the second degree, as defined in ORS 164.315.
- (33) Arson in the first degree, as defined in ORS 164.325.
- (34) Computer crime, as defined in ORS 164.377.
- (35) Robbery in the third degree, as defined in ORS 164.395.
- (36) Robbery in the second degree, as defined in ORS 164.405.
- (37) Robbery in the first degree, as defined in ORS 164.415.
- (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- (41) A violation of ORS 164.886.
- (42) Endangering aircraft, as defined in ORS 164.885.
- (43) Interference with agricultural operations, as defined in ORS 164.887.
- (44) Forgery in the second degree, as defined in ORS 165.007.
- (45) Forgery in the first degree, as defined in ORS 165.013.
- (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- (49) Criminal simulation, as defined in ORS 165.037.
- (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- (52) Negotiating a bad check, as defined in ORS 165.065.
- (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- (55) Falsifying business records, as defined in ORS 165.080.
- (56) Sports bribery, as defined in ORS 165.085.
- (57) Sports bribe receiving, as defined in ORS 165.090.
- (58) Misapplication of entrusted property, as defined in ORS 165.095.
- (59) Issuing a false financial statement, as defined in ORS 165.100.
- (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- (61) A violation of ORS 165.543.
- (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- (65) Identity theft, as defined in ORS 165.800.
- (66) A violation of ORS 166.190.
- (67) Unlawful use of a weapon, as defined in ORS 166.220.
- (68) A violation of ORS 166.240.
- (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- (70) A violation of ORS 166.270.

- (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer, as defined in ORS 166.272.
- (72) A violation of ORS 166.275.
- (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- (74) A violation of ORS 166.370.
- (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- (78) A violation of ORS 166.410.
- (79) Providing false information in connection with a transfer of a firearm, as defined in ORS 166.416.
- (80) Improperly transferring a firearm, as defined in ORS 166.418.
- (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- (82) A violation of ORS 166.429.
- (83) A violation of ORS 166.470.
- (84) A violation of ORS 166.480.
- (85) A violation of ORS 166.635.
- (86) A violation of ORS 166.638.
- (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- (88) A violation of ORS 166.720.
- (89) Prostitution, as defined in ORS 167.007.
- (90) Promoting prostitution, as defined in ORS 167.012.
- (91) Compelling prostitution, as defined in ORS 167.017.
- (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- (97) Possession of a gambling device, as defined in ORS 167.147.
- (98) Possession of a gray machine, as defined in ORS 167.164.
- (99) Cheating, as defined in ORS 167.167.
- (100) Tampering with drug records, as defined in ORS 167.212.
- (101) A violation of ORS 167.262.
- (102) Research and animal interference, as defined in ORS 167.312.
- (103) Animal abuse in the first degree, as defined in ORS 167.320.
- (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- (105) Animal neglect in the first degree, as defined in ORS 167.330.
- (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.
- (107) Involvement in animal fighting, as defined in ORS 167.355.
- (108) Dogfighting, as defined in ORS 167.365.
- (109) Participation in dogfighting, as defined in ORS 167.370.
- (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- (111) Interference with livestock production, as defined in ORS 167.388.
- (112) A violation of ORS 167.390.
- (113) A violation of ORS 471.410.
- (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- (115) Illegally selling drug equipment, as defined in ORS 475.960.
- (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.



- (120) A violation of ORS 475.916.
- (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- (122) A violation of ORS 475.904.
- (123) Misuse of an identification card, as defined in ORS 807.430.
- (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as defined in ORS 807.500.
- (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- (126) Using an invalid license, as defined in ORS 807.580.
- (127) Permitting misuse of a license, as defined in ORS 807.590.
- (128) Using another's license, as defined in ORS 807.600.
- (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a felony.
- (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a felony.
- (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- (132) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- (133) A violation of ORS 180.440 (2).
- (134) A violation described in ORS 475.846 to 475.894, if it is a felony.
- (135) Subjecting another person to involuntary servitude in the first degree, as defined in ORS 163.264.
- (136) Subjecting another person to involuntary servitude in the second degree, as defined in ORS 163.263.
- (137) Trafficking in persons, as defined in ORS 163.266.
- (138) Furnishing sexually explicit material to a child, as defined in ORS 167.054.
- (139) Luring a minor, as defined in ORS 167.057.
- (140) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- (141) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- (142) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (141) of this section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.

**SECTION 18. Sections 2 and 7 of this 2009 Act and the amendments to ORS 131.550, 131.564 and 131.588 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356), by sections 3 to 5 and 8 to 16 of this 2009 Act apply only to motor vehicles seized on or after the effective date of this 2009 Act.**

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**Passed by House May 6, 2009**

**Repassed by House June 19, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate June 17, 2009**

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President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

.....  
Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

.....  
Secretary of State