

(To Resolve Conflicts)

B-Engrossed House Bill 2403

Ordered by the Senate June 15
Including House Amendments dated April 30 and Senate Amendments
dated June 15 to resolve conflicts

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires law enforcement agency that lawfully seizes motor vehicle to disable hidden compartment in vehicle unless vehicle is forfeited and agency either retains vehicle for use or determines that cost of disabling compartment exceeds value of vehicle.

Modifies provisions relating to criminal and civil forfeiture to account for cost of disabling hidden compartment in motor vehicle.

A BILL FOR AN ACT

1
2 Relating to forfeiture; creating new provisions; and amending ORS 131.550, 131.564, 131.588 and
3 131.602 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled
4 Senate Bill 356).

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

6 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 131.550 to**
7 **131.600.**

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

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

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

14 **(2) Notwithstanding ORS 131.594 or 131.597, if the motor vehicle with a hidden compart-**
15 **ment is forfeited and the seizing agency:**

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

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

24 **(3) If a motor vehicle with a hidden compartment is forfeited and the seizing agency sells**
25 **the motor vehicle, the agency shall deduct the cost of disabling the hidden compartment**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **from the proceeds of the sale under ORS 131.594 (1)(a) or 131.597 (1)(a).**

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

3 131.588. (1) If no financial institution has filed the affidavit described in ORS 131.579 (1), and if
4 the court has failed to uphold the claim or affidavit of any other person claiming an interest in the
5 property, the effect of the judgment is that:

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

8 (b) The seizing agency may transfer good and sufficient title to any subsequent purchaser or
9 transferee, and all courts, the state and the departments and agencies of this state, and any political
10 subdivision shall recognize the title. In the case of real property, the seizing agency shall warrant
11 the title against constitutional defect. A warranty under this paragraph is limited to the purchase
12 price of the real property; and

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

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

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

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

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

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

38 (b) If the court has determined that the property should not be forfeited and has foreclosed one
39 or more interests covering the property, including security interests or liens covering the property
40 or contracts for the transfer or conveyance of the property, the seizing agency shall pay all costs
41 and expenses relating to towing and storage of the property and shall cause to be discharged any
42 possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to
43 the property since the seizure, and the court shall order the property sold pursuant to a sheriff's
44 sale or other sale authorized by the court within such time as may be prescribed by the court fol-
45 lowing entry of the judgment. If any interests covering the property have not been foreclosed, in-

1 cluding any liens or security interests of a claimant whose claim has been upheld, or of a financial
2 institution that has filed the affidavit described in ORS 131.579, the property must be sold subject
3 to those interests. The judgment shall order the proceeds of the sale applied in the following order:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Advisory Committee.

2 (7)(a) On entry of judgment for a claimant in any proceeding to forfeit property under ORS
3 131.550 to 131.600, unless the court has foreclosed one or more security interests, liens or other in-
4 terests covering the property, the property or interest in property must be returned or conveyed
5 immediately to the claimant designated by the court.

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

12 (8) **Except for deficiencies resulting from disabling a hidden compartment in a motor ve-**
13 **hicle with a hidden compartment,** nothing in this section prevents a claimant or financial insti-
14 tution from obtaining any deficiency to which the claimant or financial institution would otherwise
15 be entitled.

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

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

22 131.564. (1)(a) Except as otherwise provided in ORS 131.550 to 131.600, property seized for
23 criminal forfeiture is not subject to replevin, conveyance, sequestration or attachment. The seizure
24 of property or the commencement of a criminal forfeiture proceeding under ORS 131.550 to 131.600
25 does not abate, impede or in any way delay the initiation or prosecution of a suit or action by a
26 financial institution for the possession of seized property in which the financial institution has or
27 purports to have a lien or security interest or for the foreclosure of such lien or security interest.
28 A financial institution may proceed with any suit or action involving property in which it has a lien
29 or security interest even though a seizure has occurred and criminal forfeiture proceedings have
30 been or will be commenced. If property that may be subject to criminal forfeiture is sold prior to
31 the conclusion of the forfeiture proceedings, the sheriff, trustee or other person who is conducting
32 the sale and who has actual notice of the forfeiture proceedings shall distribute the sale proceeds
33 as follows:

34 (A) To the expenses of the sale;

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

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

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

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

44 (2) Within 30 days following seizure of property for criminal forfeiture, the seizing agency, in
45 consultation with the district attorney of the county in which the property was seized for forfeiture,

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

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

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

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

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

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

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

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

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

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

42 (b) Notwithstanding paragraph (a) of this subsection, all cash seized for criminal forfeiture that
43 at the time of seizure is deposited in any form of account in a financial institution may remain in
44 the account in the financial institution. From the time of seizure until the criminal forfeiture pro-
45 ceeding is abandoned, or until a court ultimately enters a judgment granting or denying criminal

1 forfeiture or enters a judgment of dismissal, all deposits except the deposit of interest by the finan-
2 cial institution, withdrawals or other transactions involving the account are prohibited, unless ap-
3 proved by the court.

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

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

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

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

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

29 (8) When property has been seized for criminal forfeiture or a notice of criminal forfeiture has
30 been filed, an owner of or interest holder in the property may file a motion seeking an order to show
31 cause. The motion must be filed no later than 15 days after the owner or interest holder received
32 notice or actual knowledge of the seizure, whichever is earlier. At the time a person files a motion
33 under this subsection, the person must serve a copy of the motion on the forfeiture counsel and the
34 defendant, if any. When a motion is filed under this subsection, the court shall issue an order to
35 show cause to the seizing agency for a hearing on the sole issue of whether probable cause for
36 criminal forfeiture of the property exists. If the court finds that there is no probable cause for
37 criminal forfeiture of the property, the property seized for criminal forfeiture or subjected to the
38 notice of criminal forfeiture must be released pending the outcome of a judicial proceeding under
39 ORS 131.582. As used in this subsection, "owner" or "interest holder" does not include the defend-
40 ant.

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

42 131.550. As used in ORS 131.550 to 131.600:

43 (1) "Acquiesce in prohibited conduct" means that a person knew of the prohibited conduct and
44 knowingly failed to take reasonable action under the circumstances to terminate or avoid the use
45 of the property in the course of prohibited conduct. For purposes of this subsection, "reasonable

1 action under the circumstances” includes, but is not limited to:

- 2 (a) Reporting the prohibited conduct to a law enforcement agency;
- 3 (b) Commencing action that will assert the rights of the affiant as to the property interest;
- 4 (c) Terminating a rental agreement; or
- 5 (d) Seeking an abatement order under the provisions of ORS 105.505 to 105.520 or 105.550 to
- 6 105.600 or under any ordinance or regulation allowing abatement of nuisances.

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

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

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

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

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

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

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

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

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

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

23 (A) The Secretary of Housing and Urban Development;

24 (B) The Federal Housing Administration;

25 (C) The United States Department of Veterans Affairs;

26 (D) Rural Development and the Farm Service Agency of the United States Department of Agri-
27 culture;

28 (E) The Federal National Mortgage Association;

29 (F) The Government National Mortgage Association;

30 (G) The Federal Home Loan Mortgage Corporation;

31 (H) The Federal Agricultural Mortgage Corporation; and

32 (I) The Small Business Administration;

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

34 (A) The Housing and Community Services Department;

35 (B) The Department of Veterans’ Affairs; and

36 (C) The Public Employees Retirement System;

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

39 (g) An insurer as defined in ORS 731.106;

40 (h) A private mortgage insurance company;

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

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

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

45 (6) “Instrumentality” means property that is used or intended for use in prohibited conduct or

1 that facilitates prohibited conduct.

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

4 (8) "**Motor vehicle with a hidden compartment**" means a motor vehicle as defined in ORS
5 801.360 that has had the vehicle's original design modified by a person other than the man-
6 ufacturer to create a container, space or enclosure for the purpose of concealing, hiding or
7 otherwise preventing discovery of its contents and that is used or intended to be used to
8 facilitate the commission of a criminal offense.

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

11 [(9)] (10) "Police officer" has the meaning given that term in ORS 133.525.

12 [(10)] (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from,
13 maintained by or realized through an act or omission that constitutes prohibited conduct, and in-
14 cludes any benefit, interest or property of any kind without reduction for expenses of acquiring or
15 maintaining it or incurred for any other reason.

16 [(11)] (12) "Prohibited conduct" means:

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

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

19 [(12)] (13) "Property" means any interest in anything of value, including the whole of any lot
20 or tract of land and tangible and intangible personal property, including currency, instruments or
21 securities or any other kind of privilege, interest, claim or right whether due or to become due.

22 [(13)] (14) "Seizing agency" means a law enforcement agency that has seized property for crim-
23 inal forfeiture.

24 [(14)] (15) "Weapon" means any instrument of offensive or defensive combat or anything used,
25 or designed to be used, to destroy, defeat or injure a person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (A) The Secretary of Housing and Urban Development;

25 (B) The Federal Housing Administration;

26 (C) The United States Department of Veterans Affairs;

27 (D) Rural Development and the Farm Service Agency of the United States Department of Agri-
28 culture;

29 (E) The Federal National Mortgage Association;

30 (F) The Government National Mortgage Administration;

31 (G) The Federal Home Loan Mortgage Corporation;

32 (H) The Federal Agricultural Mortgage Corporation; and

33 (I) The Small Business Administration;

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

35 (A) The Housing Agency;

36 (B) The Department of Veterans' Affairs; and

37 (C) The Public Employees Retirement System;

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

41 (g) An insurer as defined in ORS 731.106;

42 (h) A private mortgage insurance company;

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

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

45 (4) "Forfeiting agency" means a public body that is seeking forfeiture of property under sections

1 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act].

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

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

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

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

11 **(9) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS**
12 **801.360 that has had the vehicle's original design modified by a person other than the man-**
13 **ufacturer to create a container, space or enclosure for the purpose of concealing, hiding or**
14 **otherwise preventing discovery of its contents and that is used or intended to be used to**
15 **facilitate the commission of a criminal offense.**

16 [(9)] (10) "Police officer" has the meaning given that term in ORS 133.525.

17 [(10)] (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from
18 prohibited conduct, or maintained by or realized through prohibited conduct. "Proceeds of prohibited
19 conduct" includes any benefit, interest or property of any kind, without reduction for expenses of
20 acquiring or maintaining the property.

21 [(11)] (12) "Prohibited conduct" means:

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

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

30 [(12)] (13) "Property" means any interest in anything of value, including the whole of any lot
31 or tract of land and tangible and intangible personal property, including currency, instruments or
32 securities or any other kind of privilege, interest, claim or right whether due or to become due.

33 [(13)] (14) "Public body" has the meaning given in ORS 174.109.

34 [(14)] (15) "Seizing agency" means a law enforcement agency that has seized property for
35 forfeiture.

36 [(15)] (16) "Weapon" means any instrument of offensive or defensive combat or anything used,
37 or designed to be used, in destroying, defeating or injuring a person.

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

40 **Sec. 12.** (1) Seizure of property for forfeiture and other proceedings under sections 1 to 51,
41 **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)**, [of this 2009 Act] does not prevent,
42 abate or delay the initiation or prosecution of a suit or action by a financial institution for the
43 possession of seized property in which the financial institution claims a lien or security interest, or
44 initiation or prosecution of a suit or action by a financial institution for the foreclosure of a lien
45 or security interest claimed by the financial institution. A financial institution may proceed with any

1 suit or action involving property in which the institution claims a lien or security interest even
2 though a seizure has occurred and a forfeiture action has been commenced or will be commenced.
3 The financial institution's suit or action may be consolidated with the forfeiture action for the pur-
4 pose of trial. If seized property is sold before the conclusion of the forfeiture action, the sheriff,
5 trustee or other person who is conducting the sale and who has actual notice of the forfeiture action
6 shall distribute the sale proceeds as follows:

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

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

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

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

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

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

24 **Sec. 17.** (1) A seizing agency, after consultation with the district attorney of the county in
25 which the property was seized, must decide whether to seek forfeiture of seized property not more
26 than 30 days after the property is seized. If the seizing agency elects not to seek forfeiture, the
27 agency shall pay all costs and expenses relating to towing and storage of the property, and shall
28 release the property and cause to be discharged any possessory chattel liens arising under ORS
29 87.152 to 87.162 that have attached to the property since the seizure. **If the property is a motor**
30 **vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the**
31 **value of the property as a result of disabling the compartment.**

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

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

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

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

42 (b) Require the petitioner to service and maintain the property as may be reasonably appropri-
43 ate to preserve the property's value; and

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

1 upon the issuance of a judgment of forfeiture.

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

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

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

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

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

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

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

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

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

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

44 **Sec. 39.** (1) Except as provided in subsection (2) of this section, if a judgment is entered for a
45 claimant in a proceeding under sections 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate**

1 **Bill 356** [of this 2009 Act], the claimant's property or interest in the property shall be returned or
 2 conveyed immediately to the claimant. All security interests, liens and other interests applicable to
 3 the property shall remain in effect as though the property had never been seized. Upon the return
 4 of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing
 5 and storage of the property, and shall cause to be discharged any possessory chattel liens on the
 6 property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure.
 7 The court shall award costs, disbursements and attorney fees in the manner provided by ORCP 68
 8 to the prevailing claimant, to be paid by the forfeiting agency. **If the property is a motor vehicle**
 9 **with a hidden compartment, the seizing agency is not liable for any diminution in the value**
 10 **of the property as a result of disabling the compartment.**

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

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

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

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

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

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

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

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

41 (3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture
 42 proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the
 43 case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses
 44 such as the provision of currency for undercover law enforcement operations, **the cost of disabling**
 45 **a hidden compartment in a motor vehicle** and the expenses of maintaining the seized property.

1 The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance
2 and operation of a seizing or forfeiting agency under this subsection.

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

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

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

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

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

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

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

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

26 (b) Currency for undercover law enforcement operations;

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

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

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

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

37 (8) A forfeiting agency shall sell as much property as may be needed to make the distributions
38 required by this section. Distributions required under subsection (4) of this section must be made
39 once every three months and are due within 20 days of the end of each quarter. No interest shall
40 accrue on amounts that are paid within the period specified by this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Forfeiture Account.

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

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

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

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

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

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

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

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

19 (b) Currency for undercover law enforcement operations;

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

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

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

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

29 131.602. The crimes to which ORS 131.550 [(11)(b)] (12)(b) applies are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (16) Possession of materials depicting sexually explicit conduct of a child in the second degree,
2 as defined in ORS 163.689.
- 3 (17) Theft in the second degree, as defined in ORS 164.045.
- 4 (18) Theft in the first degree, as defined in ORS 164.055.
- 5 (19) Aggravated theft in the first degree, as defined in ORS 164.057.
- 6 (20) Theft by extortion, as defined in ORS 164.075.
- 7 (21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- 8 (22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- 9 (23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- 10 (24) Unauthorized use of a vehicle, as defined in ORS 164.135.
- 11 (25) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- 12 (26) Laundering a monetary instrument, as defined in ORS 164.170.
- 13 (27) Engaging in a financial transaction in property derived from unlawful activity, as defined
14 in ORS 164.172.
- 15 (28) Burglary in the second degree, as defined in ORS 164.215.
- 16 (29) Burglary in the first degree, as defined in ORS 164.225.
- 17 (30) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- 18 (31) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- 19 (32) Arson in the second degree, as defined in ORS 164.315.
- 20 (33) Arson in the first degree, as defined in ORS 164.325.
- 21 (34) Computer crime, as defined in ORS 164.377.
- 22 (35) Robbery in the third degree, as defined in ORS 164.395.
- 23 (36) Robbery in the second degree, as defined in ORS 164.405.
- 24 (37) Robbery in the first degree, as defined in ORS 164.415.
- 25 (38) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- 26 (39) Unlawful recording of a live performance, as defined in ORS 164.869.
- 27 (40) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- 28 (41) A violation of ORS 164.886.
- 29 (42) Endangering aircraft, as defined in ORS 164.885.
- 30 (43) Interference with agricultural operations, as defined in ORS 164.887.
- 31 (44) Forgery in the second degree, as defined in ORS 165.007.
- 32 (45) Forgery in the first degree, as defined in ORS 165.013.
- 33 (46) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- 34 (47) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- 35 (48) Criminal possession of a forgery device, as defined in ORS 165.032.
- 36 (49) Criminal simulation, as defined in ORS 165.037.
- 37 (50) Fraudulently obtaining a signature, as defined in ORS 165.042.
- 38 (51) Fraudulent use of a credit card, as defined in ORS 165.055.
- 39 (52) Negotiating a bad check, as defined in ORS 165.065.
- 40 (53) Possessing a fraudulent communications device, as defined in ORS 165.070.
- 41 (54) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- 42 (55) Falsifying business records, as defined in ORS 165.080.
- 43 (56) Sports bribery, as defined in ORS 165.085.
- 44 (57) Sports bribe receiving, as defined in ORS 165.090.
- 45 (58) Misapplication of entrusted property, as defined in ORS 165.095.

- 1 (59) Issuing a false financial statement, as defined in ORS 165.100.
- 2 (60) Obtaining execution of documents by deception, as defined in ORS 165.102.
- 3 (61) A violation of ORS 165.543.
- 4 (62) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- 5 (63) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- 6 (64) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- 7 (65) Identity theft, as defined in ORS 165.800.
- 8 (66) A violation of ORS 166.190.
- 9 (67) Unlawful use of a weapon, as defined in ORS 166.220.
- 10 (68) A violation of ORS 166.240.
- 11 (69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 12 (70) A violation of ORS 166.270.
- 13 (71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
- 14 firearms silencer, as defined in ORS 166.272.
- 15 (72) A violation of ORS 166.275.
- 16 (73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 17 (74) A violation of ORS 166.370.
- 18 (75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 19 (76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 20 (77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 21 (78) A violation of ORS 166.410.
- 22 (79) Providing false information in connection with a transfer of a firearm, as defined in ORS
- 23 166.416.
- 24 (80) Improperly transferring a firearm, as defined in ORS 166.418.
- 25 (81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 26 (82) A violation of ORS 166.429.
- 27 (83) A violation of ORS 166.470.
- 28 (84) A violation of ORS 166.480.
- 29 (85) A violation of ORS 166.635.
- 30 (86) A violation of ORS 166.638.
- 31 (87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 32 (88) A violation of ORS 166.720.
- 33 (89) Prostitution, as defined in ORS 167.007.
- 34 (90) Promoting prostitution, as defined in ORS 167.012.
- 35 (91) Compelling prostitution, as defined in ORS 167.017.
- 36 (92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 37 (93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 38 (94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 39 (95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 40 (96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 41 (97) Possession of a gambling device, as defined in ORS 167.147.
- 42 (98) Possession of a gray machine, as defined in ORS 167.164.
- 43 (99) Cheating, as defined in ORS 167.167.
- 44 (100) Tampering with drug records, as defined in ORS 167.212.
- 45 (101) A violation of ORS 167.262.

- 1 (102) Research and animal interference, as defined in ORS 167.312.
- 2 (103) Animal abuse in the first degree, as defined in ORS 167.320.
- 3 (104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 4 (105) Animal neglect in the first degree, as defined in ORS 167.330.
- 5 (106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS
- 6 167.352.
- 7 (107) Involvement in animal fighting, as defined in ORS 167.355.
- 8 (108) Dogfighting, as defined in ORS 167.365.
- 9 (109) Participation in dogfighting, as defined in ORS 167.370.
- 10 (110) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- 11 (111) Interference with livestock production, as defined in ORS 167.388.
- 12 (112) A violation of ORS 167.390.
- 13 (113) A violation of ORS 471.410.
- 14 (114) Failure to report missing precursor substances, as defined in ORS 475.955.
- 15 (115) Illegally selling drug equipment, as defined in ORS 475.960.
- 16 (116) Providing false information on a precursor substances report, as defined in ORS 475.965.
- 17 (117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- 18 (118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
- 19 (119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- 20 (120) A violation of ORS 475.916.
- 21 (121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- 22 (122) A violation of ORS 475.904.
- 23 (123) Misuse of an identification card, as defined in ORS 807.430.
- 24 (124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
- 25 defined in ORS 807.500.
- 26 (125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- 27 (126) Using an invalid license, as defined in ORS 807.580.
- 28 (127) Permitting misuse of a license, as defined in ORS 807.590.
- 29 (128) Using another's license, as defined in ORS 807.600.
- 30 (129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a fel-
- 31 ony.
- 32 (130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
- 33 felony.
- 34 (131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- 35 (132) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- 36 (133) A violation of ORS 180.440 (2).
- 37 (134) A violation described in ORS 475.846 to 475.894, if it is a felony.
- 38 (135) Subjecting another person to involuntary servitude in the first degree, as defined in ORS
- 39 163.264.
- 40 (136) Subjecting another person to involuntary servitude in the second degree, as defined in ORS
- 41 163.263.
- 42 (137) Trafficking in persons, as defined in ORS 163.266.
- 43 (138) Furnishing sexually explicit material to a child, as defined in ORS 167.054.
- 44 (139) Luring a minor, as defined in ORS 167.057.
- 45 (140) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.

1 (141) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.

2 (142) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (141) of this
3 section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.

4 **SECTION 18. Sections 2 and 7 of this 2009 Act and the amendments to ORS 131.550,**
5 **131.564 and 131.588 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78, Oregon Laws**
6 **2009 (Enrolled Senate Bill 356), by sections 3 to 5 and 8 to 16 of this 2009 Act apply only to**
7 **motor vehicles seized on or after the effective date of this 2009 Act.**

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