

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2403

By COMMITTEE ON RULES

June 15

1 On page 1 of the printed A-engrossed bill, line 2, after “131.588” delete the rest of the line and
2 delete line 3 and insert “and 131.602 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78,
3 Oregon Laws 2009 (Enrolled Senate Bill 356).”.

4 On page 8, delete lines 25 through 45 and delete pages 9 through 20 and insert:

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

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

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

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

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

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

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 sections 43 and 44, chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356).**
23 **The seizing agency shall ensure that the person to whom the motor vehicle is sold disables**
24 **the hidden compartment or the motor vehicle.**

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

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

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

33 **“(1) ‘All persons known to have an interest’ means:**

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

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

2 “(c) Any person who has an interest in property seized for forfeiture, including all owners and

3 occupants of the property, whose identity and address is known or is ascertainable upon diligent

4 inquiry and whose rights and interest in the property may be affected by the action.

5 “(2) ‘Attorney fees’ has the meaning given that term in ORCP 68 A.

6 “(3) ‘Financial institution’ means any person lawfully conducting business as:

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

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

9 “(c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a

10 mortgage servicing company or other mortgage company;

11 “(d) An officer, agency, department or instrumentality of the federal government, including but

12 not limited to:

13 “(A) The Secretary of Housing and Urban Development;

14 “(B) The Federal Housing Administration;

15 “(C) The United States Department of Veterans Affairs;

16 “(D) Rural Development and the Farm Service Agency of the United States Department of Ag-

17 riculture;

18 “(E) The Federal National Mortgage Association;

19 “(F) The Government National Mortgage Administration;

20 “(G) The Federal Home Loan Mortgage Corporation;

21 “(H) The Federal Agricultural Mortgage Corporation; and

22 “(I) The Small Business Administration;

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

24 “(A) The Housing Agency;

25 “(B) The Department of Veterans’ Affairs; and

26 “(C) The Public Employees Retirement System;

27 “(f) An agency, department or instrumentality of any local government, as defined by ORS

28 174.116 or special government body, as defined by ORS 174.117, including but not limited to such

29 agencies as the Portland Development Commission;

30 “(g) An insurer as defined in ORS 731.106;

31 “(h) A private mortgage insurance company;

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

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

34 “(4) ‘Forfeiting agency’ means a public body that is seeking forfeiture of property under sections

35 1 to 51, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [of this 2009 Act].

36 “(5) ‘Forfeiture counsel’ means an attorney designated by a forfeiting agency to represent the

37 forfeiting agency in forfeiture proceedings.

38 “(6) ‘Forfeiture proceeds’ means all property that has been forfeited in a proceeding under

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

40 cluding money, earnings from forfeited property and amounts realized from the sale of forfeited

41 property.

42 “(7) ‘Instrumentality’ has the meaning given in ORS 131.550.

43 “(8) ‘Law enforcement agency’ means any agency that employs police officers or prosecutes

44 criminal cases.

45 “(9) **‘Motor vehicle with a hidden compartment’ means a motor vehicle as defined in ORS**

1 **801.360 that has had the vehicle’s original design modified by a person other than the man-**
2 **ufacturer to create a container, space or enclosure for the purpose of concealing, hiding or**
3 **otherwise preventing discovery of its contents and that is used or intended to be used to**
4 **facilitate the commission of a criminal offense.**

5 “[9] (10) ‘Police officer’ has the meaning given that term in ORS 133.525.

6 “[10] (11) ‘Proceeds of prohibited conduct’ means property derived directly or indirectly from
7 prohibited conduct, or maintained by or realized through prohibited conduct. ‘Proceeds of prohibited
8 conduct’ includes any benefit, interest or property of any kind, without reduction for expenses of
9 acquiring or maintaining the property.

10 “[11] (12) ‘Prohibited conduct’ means:

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

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

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) ‘Public body’ has the meaning given in ORS 174.109.

23 “[14] (15) ‘Seizing agency’ means a law enforcement agency that has seized property for
24 forfeiture.

25 “[15] (16) ‘Weapon’ means any instrument of offensive or defensive combat or anything used,
26 or designed to be used, in destroying, defeating or injuring a person.

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

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

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

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

45 “[b] (c) After payment of the expenses of the sale **and making any reimbursement under**

1 **paragraphs (a) and (b) of this subsection**, to the payment of the obligations owed to the fore-
2 closing financial institution that are secured by the property, and to the payment of the obligations
3 owed to any other person that has a lien or security interest in the property that has been fore-
4 closed in the suit or action. Payment under this paragraph shall be made in the order determined
5 by the court.

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

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

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

13 “**Sec. 17.** (1) A seizing agency, after consultation with the district attorney of the county in
14 which the property was seized, must decide whether to seek forfeiture of seized property not more
15 than 30 days after the property is seized. If the seizing agency elects not to seek forfeiture, the
16 agency shall pay all costs and expenses relating to towing and storage of the property, and shall
17 release the property and cause to be discharged any possessory chattel liens arising under ORS
18 87.152 to 87.162 that have attached to the property since the seizure. **If the property is a motor**
19 **vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the**
20 **value of the property as a result of disabling the compartment.**

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

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

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

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

31 “(b) Require the petitioner to service and maintain the property as may be reasonably appro-
32 priate to preserve the property’s value; and

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

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

42 “(3) An order restoring custody of property to a petitioner under section 22 or 23, **chapter 78,**
43 **Oregon Laws 2009 (Enrolled Senate Bill 356)**, [*of this 2009 Act*] is enforceable by a contempt
44 proceeding brought on the relation of forfeiture counsel, by an order directing the petitioner to de-
45 liver the property to the custody of the forfeiting agency, by an order awarding to the forfeiting

1 agency its reasonably incurred attorney fees, costs and investigative expenses, and by such other
2 remedies or relief as the court may find appropriate.

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

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

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

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

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

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

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

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

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

45 “(2) If a judgment is entered for a claimant in a proceeding under sections 1 to 51, **chapter 78,**

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

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

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

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

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

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

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

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

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

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

38 “(a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount
39 in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS
40 475.495 (5) and (6);

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

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

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

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

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

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

15 “(b) Currency for undercover law enforcement operations;

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

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

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

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

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

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

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

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

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

1 “(a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount
2 in the Illegal Drug Cleanup Fund established by ORS 475.495 for the purposes specified in ORS
3 475.495 (5) and (6);

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

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

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

12 “(4) If the forfeiting agency has entered into an intergovernmental agreement with another
13 public body under section 42, **chapter 78, Oregon Laws 2009 (Enrolled Senate Bill 356)** [*of this*
14 *2009 Act*], or has entered into an agreement with any other law enforcement agency of the state
15 relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section
16 and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay
17 an equitable portion of the forfeiture proceeds to each agency participating in the seizure or
18 forfeiture as provided by the agreement.

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

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

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

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

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

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

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

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

40 “(A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Po-
41 lice Account.

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

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

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

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

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

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

8 “(b) Currency for undercover law enforcement operations;

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

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

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

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

19 “131.602. The crimes to which ORS 131.550 [(11)(b)] **(12)(b)** applies are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 “(21) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.

43 “(22) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.

44 “(23) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.

45 “(24) Unauthorized use of a vehicle, as defined in ORS 164.135.

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

- 1 “(69) Unlawful possession of a firearm, as defined in ORS 166.250.
- 2 “(70) A violation of ORS 166.270.
- 3 “(71) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or
4 firearms silencer, as defined in ORS 166.272.
- 5 “(72) A violation of ORS 166.275.
- 6 “(73) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- 7 “(74) A violation of ORS 166.370.
- 8 “(75) Unlawful possession of a destructive device, as defined in ORS 166.382.
- 9 “(76) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- 10 “(77) Possession of a hoax destructive device, as defined in ORS 166.385.
- 11 “(78) A violation of ORS 166.410.
- 12 “(79) Providing false information in connection with a transfer of a firearm, as defined in ORS
13 166.416.
- 14 “(80) Improperly transferring a firearm, as defined in ORS 166.418.
- 15 “(81) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- 16 “(82) A violation of ORS 166.429.
- 17 “(83) A violation of ORS 166.470.
- 18 “(84) A violation of ORS 166.480.
- 19 “(85) A violation of ORS 166.635.
- 20 “(86) A violation of ORS 166.638.
- 21 “(87) Unlawful paramilitary activity, as defined in ORS 166.660.
- 22 “(88) A violation of ORS 166.720.
- 23 “(89) Prostitution, as defined in ORS 167.007.
- 24 “(90) Promoting prostitution, as defined in ORS 167.012.
- 25 “(91) Compelling prostitution, as defined in ORS 167.017.
- 26 “(92) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- 27 “(93) Unlawful gambling in the second degree, as defined in ORS 167.122.
- 28 “(94) Unlawful gambling in the first degree, as defined in ORS 167.127.
- 29 “(95) Possession of gambling records in the second degree, as defined in ORS 167.132.
- 30 “(96) Possession of gambling records in the first degree, as defined in ORS 167.137.
- 31 “(97) Possession of a gambling device, as defined in ORS 167.147.
- 32 “(98) Possession of a gray machine, as defined in ORS 167.164.
- 33 “(99) Cheating, as defined in ORS 167.167.
- 34 “(100) Tampering with drug records, as defined in ORS 167.212.
- 35 “(101) A violation of ORS 167.262.
- 36 “(102) Research and animal interference, as defined in ORS 167.312.
- 37 “(103) Animal abuse in the first degree, as defined in ORS 167.320.
- 38 “(104) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- 39 “(105) Animal neglect in the first degree, as defined in ORS 167.330.
- 40 “(106) Interfering with an assistance, a search and rescue or a therapy animal, as defined in
41 ORS 167.352.
- 42 “(107) Involvement in animal fighting, as defined in ORS 167.355.
- 43 “(108) Dogfighting, as defined in ORS 167.365.
- 44 “(109) Participation in dogfighting, as defined in ORS 167.370.
- 45 “(110) Unauthorized use of a livestock animal, as defined in ORS 167.385.

1 “(111) Interference with livestock production, as defined in ORS 167.388.
2 “(112) A violation of ORS 167.390.
3 “(113) A violation of ORS 471.410.
4 “(114) Failure to report missing precursor substances, as defined in ORS 475.955.
5 “(115) Illegally selling drug equipment, as defined in ORS 475.960.
6 “(116) Providing false information on a precursor substances report, as defined in ORS 475.965.
7 “(117) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
8 “(118) A violation of ORS 475.840, if it is a felony or a Class A misdemeanor.
9 “(119) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
10 “(120) A violation of ORS 475.916.
11 “(121) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
12 “(122) A violation of ORS 475.904.
13 “(123) Misuse of an identification card, as defined in ORS 807.430.
14 “(124) Unlawful production of identification cards, licenses, permits, forms or camera cards, as
15 defined in ORS 807.500.
16 “(125) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
17 “(126) Using an invalid license, as defined in ORS 807.580.
18 “(127) Permitting misuse of a license, as defined in ORS 807.590.
19 “(128) Using another’s license, as defined in ORS 807.600.
20 “(129) Criminal driving while suspended or revoked, as defined in ORS 811.182, when it is a
21 felony.
22 “(130) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a
23 felony.
24 “(131) Unlawful distribution of cigarettes, as defined in ORS 323.482.
25 “(132) Unlawful distribution of tobacco products, as defined in ORS 323.632.
26 “(133) A violation of ORS 180.440 (2).
27 “(134) A violation described in ORS 475.846 to 475.894, if it is a felony.
28 “(135) Subjecting another person to involuntary servitude in the first degree, as defined in ORS
29 163.264.
30 “(136) Subjecting another person to involuntary servitude in the second degree, as defined in
31 ORS 163.263.
32 “(137) Trafficking in persons, as defined in ORS 163.266.
33 “(138) Furnishing sexually explicit material to a child, as defined in ORS 167.054.
34 “(139) Luring a minor, as defined in ORS 167.057.
35 “(140) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
36 “(141) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
37 “(142) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (141) of this
38 section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor.
39 **“SECTION 18. Sections 2 and 7 of this 2009 Act and the amendments to ORS 131.550,**
40 **131.564 and 131.588 and sections 1, 12, 17, 24, 31, 38, 39, 43 and 44, chapter 78, Oregon Laws**
41 **2009 (Enrolled Senate Bill 356), by sections 3 to 5 and 8 to 16 of this 2009 Act apply only to**
42 **motor vehicles seized on or after the effective date of this 2009 Act.”.**
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