

Senate Bill 278

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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 **as introduced**.

Decreases time within which forfeiting agency must prepare notice of seizure.

A BILL FOR AN ACT

1
2 Relating to forfeitures; creating new provisions; and amending ORS 475A.055.

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

4 **SECTION 1.** ORS 475A.055 is amended to read:

5 475A.055. Personal property which is not subject to an interest in favor of any person known
6 to have an interest, other than a person who engaged in prohibited conduct, may be forfeited by the
7 forfeiting agency in the manner provided in this section.

8 (1) As soon as practicable after seizure for forfeiture, the seizing agency shall review the in-
9 ventory prepared by the officer under ORS 475A.035 (7) and estimate the value of the property
10 seized. The forfeiting agency shall amend the inventory to supply an estimate of value of the prop-
11 erty seized if no estimate was made by the officer under ORS 475A.035 (7). The forfeiting agency
12 shall, in addition, amend the inventory to supply a correct listing of the property seized or estimate
13 of the value of that property if either the listing or any estimate of value made by the officer is
14 substantially incorrect. Within [15] **seven** days after seizure for forfeiture, the forfeiting agency shall
15 prepare a notice of seizure for forfeiture containing a copy of the inventory prepared pursuant to
16 this section and ORS 475A.035, the identity of the person from whom the property was seized, the
17 name, address and telephone number of the seizing agency and the address and telephone number
18 of the office or other place where further information concerning the seizure and forfeiture may be
19 obtained, and shall make reasonable efforts to serve the notice of seizure for forfeiture on all per-
20 sons known to have an interest in the seized property. A person may be served as provided in ORCP
21 7 D except that the notice shall also include information regarding the right to file a claim under
22 subsection (3) of this section, if applicable, and the deadline for filing the claim. If the property is
23 cash in the amount of \$1,000 or less, or if the fair market value of the property is \$1,000 or less, the
24 forfeiting agency may publish notice of seizure for forfeiture in a newspaper as provided in ORCP
25 7 D(6)(b) to (d). In all other cases, the forfeiting agency shall publish notice of seizure for forfeiture
26 in a newspaper as provided in ORCP 7 D(6)(b) to (d). A copy of the notice, inventory and estimate
27 of value shall be provided to the forfeiting agency's forfeiture counsel.

28 (2)(a) The notice of seizure for forfeiture provided for in this section need not be served on a
29 person who has received the receipt provided for in ORS 475A.035 (7) if:

30 (A) The receipt contains an estimate of the value of the property seized and the seizing agency
31 has not amended the listing of property or estimate of the value in reviewing the inventory under

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 subsection (1) of this section; and

2 (B) The receipt contains information regarding the right to file a claim under subsection (3) of
3 this section and the deadline for filing the claim.

4 (b) Any person who has received the receipt provided for in ORS 475A.035 (7), who must be
5 served with the notice of seizure for forfeiture solely by reason of an amendment to the listing of
6 property or estimate of value under subsection (1) of this section, need only be served by mailing a
7 true copy of the notice of seizure for forfeiture by certified mail, return receipt requested.

8 (3) Any person claiming an interest in the property shall file a claim with the forfeiting agency's
9 forfeiture counsel within 21 days after notice of seizure for forfeiture if notice is given in a manner
10 other than by publication. All other persons claiming an interest in the property shall file a claim
11 with the forfeiting agency's forfeiture counsel within 21 days after the last publication date if notice
12 is published. No extension for the filing of any claim shall be granted. The claim shall be signed by
13 the claimant under penalty of perjury and shall set forth all of the following:

14 (a) The true name of the claimant;

15 (b) The address at which the claimant will accept future mailings from the court or forfeiture
16 counsel; and

17 (c) A statement that the claimant has an interest in the seized property.

18 (4) If no timely claim is filed, the property shall, upon application and affidavit of the forfeiting
19 agency, be declared forfeited to the forfeiting agency. The affidavit shall set forth proof of service
20 or, if no service was accomplished, facts demonstrating the forfeiting agency's efforts to accomplish
21 service, together with proof of publication of notice. The application and affidavit shall be filed in
22 the circuit court designated in ORS 475A.075. The judgment declaring the property forfeited shall
23 be as provided in ORS 475A.110.

24 (5) If a timely claim is filed, a judicial forfeiture proceeding may be commenced as provided in
25 ORS 475A.075.

26 (6) Notwithstanding ORS 8.720 or any other provision of law, but subject to the provisions of
27 ORS 180.060, a district attorney may act as forfeiture counsel in any civil forfeiture proceeding.

28 (7) In any civil forfeiture proceeding where there are or may be related criminal proceedings,
29 a prosecuting attorney or forfeiture counsel may participate in settlement negotiations initiated by
30 the defendant or claimant or by the attorney representing the defendant or claimant.

31 (8) If a forfeiting agency publishes notice of seizure for forfeiture in a newspaper in the manner
32 provided by subsection (1) of this section, the agency may include in a single publication as many
33 notices of forfeiture as the agency considers convenient. The publication may contain a single
34 statement of matters from the notices of forfeiture that are common to all of the notices and which
35 would otherwise result in needless repetition. The publication must contain for each notice of
36 forfeiture a separate copy of the inventory prepared pursuant to this section and ORS 475A.035 and
37 a separate statement of the identity of the person from whose custody the property was seized. The
38 published inventory need not contain estimates of value for the property seized.

39 **SECTION 2. The amendments to ORS 475A.055 by section 1 of this 2009 Act apply to**
40 **property seized for forfeiture on or after the effective date of this 2009 Act.**

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