

ACT 120

H.B. NO. 254

A Bill for an Act Relating to the Uniform Controlled Substances Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-55 is amended in the following ways:

1. By amending subsection (b) to read as follows:

“(b) Property subject to forfeiture under this chapter may be seized by the department upon process issued by any circuit court having jurisdiction over the property; provided that any county may, in addition to the department, seize motor vehicles under section 329-55(a)(4). Seizure without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this chapter;
- (3) The department or a county has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- (4) The department or a county has probable cause to believe that the property was used or is intended to be used in violation of this chapter.”

2. By amending subsection (d) to read as follows:

“(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the seizing authority subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the seizing authority may:

- (1) Place the property under seal;
- (2) Remove the property to a place designated by it; or
- (3) Require the sheriff to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

If a county seizes property under paragraph (a)(4) it shall immediately notify the department of the seizure, and shall relinquish the seized property to

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the department upon its request therefor. In the event the department does not request the property seized by the county, the property shall be disposed of by the county in a manner consistent with paragraph (e).”

3. By amending subsection (e) to read as follows:

“(e) When property is forfeited under this chapter the department may:

- (1) Retain it for official use;
- (2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;
- (3) Require the sheriff to take custody of the property and remove it for disposition in accordance with law; or
- (4) Forward it to be Bureau for disposition.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1977.)

*Edited accordingly.