2021 South Dakota Legislature

Senate Bill 164

SENATE JUDICIARY ENGROSSED

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: ***Senator*** *Johns*

An Act to modify the process for civil forfeiture.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-20B-70 be AMENDED.

34-20B-70. Property subject to forfeiture.

The following are subject to forfeiture pursuant to chapter 23A-49 and no property right exists in them:

(1) All controlled drugs and substances and marijuana which have been manufactured, distributed, dispensed, or acquired in violation of the provisions of this chapter or chapter 22-42;

(2) All raw materials, products, and equipment of any kind which are used or intended for use, in manufacturing, compounding, or processing~~, importing, or exporting~~ any controlled drug or substance or marijuana in excess of one-half pound in violation of the provisions of this chapter or chapter 22-42;

(3) All property which is used, or intended for use, as a container for property described in subdivisions (1) and (2);

(4) All conveyances including aircraft, vehicles, or vessels, ~~which transport, possess, or conceal, or~~ which are used, or intended for use, to ~~transport, or in any manner~~ facilitate the ~~transportation, sale, receipt,~~ unlawful distribution or possession~~, or concealment of~~ with the intent to distribute marijuana in excess of one-half pound or any quantity of any other property described in subdivision (1) or (2)~~, except as provided in §§ 34-20B-71 to 34-20B-73, inclusive. This subdivision includes those instances in which a conveyance transports, possesses or conceals marijuana or a controlled substance as described herein without the necessity of showing that the conveyance is specifically being used to transport, possess, or conceal or facilitate the transportation, possession, or concealment of marijuana or a controlled substance in aid of any other offense~~;

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter;

(6) Any funds or other things of value used for the purposes of unlawfully purchasing, attempting to purchase, distributing, or attempting to distribute any controlled drug or substance or ~~marijuana~~ in an amount intended for distribution and not for personal use, and marijuana in excess of one-half pound; or

(7) Any assets, interest, profits, income, and proceeds acquired or derived from the unlawful purchase, attempted purchase, distribution, or attempted distribution of any controlled drug or substance ~~or marijuana~~ in an amount intended for distribution and not for personal use, and marijuana in excess of one-half pound.

Property described in subdivision (1) shall be deemed contraband and shall be summarily forfeited to the state, property described in subdivisions (2), (3), (5), (6), and (7) is subject to forfeiture under the terms of § 23A-49-14, and property described in subdivision (4) is subject to forfeiture under the terms of § 23A-49-15.