

On page 1, line 23, after "chapter." insert " No property rights exist in contraband. Contraband is subject to seizure and shall be disposed of according to state law."

On page 2, line 26, delete " and " and insert ", "

On page 2, line 26, after "counsel" insert ", and any person with a perfected security interest in the property"

On page 3, line 27, delete "If property is forfeited under this chapter, the attorney general shall sell any forfeited property that is not required to be destroyed by law and that is not harmful to the public, and distribute the proceeds in the following order:

- (1) The payment of fines or costs ordered to be paid by the defendant;
- (2) The payment of restitution to any victims of the underlying crime;
- (3) The payment of reasonable expenses incurred by law enforcement and the state in investigating and prosecuting the underlying criminal case as determined by the court; and
- (4) Any remaining balance shall be treated in the same manner as fines and distributed to the schools in the manner prescribed in S. D. Const. , Art. VIII, § 3" and insert "

If property is forfeited under this chapter, the attorney general may:

- (1) Retain the property for official use;
- (2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. All money seized or remaining proceeds from the sale of any forfeited property shall be paid into the following funds:
 - (a) If seized pursuant to a violation of chapters 34-20B or 22-42, proceeds shall go to the drug control fund;
 - (b) If seized pursuant to a violation of chapters 22-24A, 22-23, 22-19A, 22-24B, 43-43B, or 23A-27, proceeds shall be used to reimburse the actual costs of the criminal investigation and prosecution, and any amount over those costs shall be used to satisfy any civil judgments received by the victims. All remaining proceeds shall be paid to the South Dakota internet crimes against children fund; and
 - (c) If not otherwise specified by this chapter, proceeds shall go to the general fund; or
- (3) If property is seized pursuant to a violation of chapters 34-20B or 22-42, the attorney general may forward it to the Division of Criminal Investigation for disposition. Such disposition may include delivery for medical or scientific use to any federal or state agency under regulations of the United States attorney general"

On page 4, after line 29, insert "

Section 12. That a NEW SECTION be added:

23A-51-12. Conveyance used in common carrier business not subject to forfeiture--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under the provisions of this chapter, unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of any crime in the chapters listed in § 23A-51-9.

"

On page 4, after line 29, insert "

Section 13. That a NEW SECTION be added:

23A-51-13. Stolen and leased conveyances not subject to forfeiture--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance may be forfeited under the provisions of this chapter, by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state, or while the conveyance was rented or leased from a motor vehicle dealer or a leasing or rental agency and the dealer or agency had no knowledge that the conveyance was being used or intended for use, to transport or in any manner facilitate the commission of any crime in the chapters listed in § 23A-51-9.

"

On page 4, after line 29, insert "

Section 14. That a NEW SECTION be added:

23A-51-14. Conveyance not subject to forfeiture for acts or omissions of nonowner--Exception.

Notwithstanding the provisions of subdivision 34-20B-70(4) or 22-24A-15(4), no conveyance may be forfeited under the provisions of this chapter, by reason of any act committed or omitted by a person other than an owner of the conveyance unless the owner knew or in the exercise of ordinary care should have known that the conveyance

was being used or was intended for use to facilitate the commission of any crime in the chapters listed in § 23A-51-9.

"

On page 4, line 30, after "website." delete "Section 12. That a NEW SECTION be added:

"

On page 5, line 1, after "added:" delete "Relinquishing property seized to federal agency prohibited."

On page 5, line 1, after "prohibited." delete "

A local or state law enforcement agency may not refer, transfer, or otherwise relinquish possession of property seized under state law to a federal agency by way of adoption of the seized property or other means by the federal agency for the purpose of the property's forfeiture under the federal Controlled Substances Act, Public Law 91-513, or other federal law."

On page 7, after line 16, insert "

Section 18. That § 34-20B-64 be AMENDED:

34-20B-64. Drug control fund created--Administration by attorney general--Expenditures--Excess funds.

There is hereby created in the state treasury a special revolving fund to be known as the "drug control fund," which shall be administered by the attorney general. The attorney general may authorize expenditure of moneys in the fund for purchase of controlled drugs and substances, as defined in this chapter, by authorized agents of the attorney general from unregistered dispensers and distributors. All disbursements from the fund shall be made on warrants drawn by the state auditor on vouchers approved by the attorney general. Any moneys in the fund expenditures by the attorney general in excess of two hundred fifty thousand dollars per year shall be available for distribution by the attorney general. Upon application by any local law enforcement agency, any drug law enforcement task force or the division of highway patrol, the attorney general may authorize release of any such available moneys in the fund for the purpose of assisting local law enforcement agencies in drug control and drug offender apprehension efforts. approved by the Joint Committee of Appropriations or the special interim committee created by § 4-8A-2.

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