

HOUSE BILL No. 5877

March 15, 2006, Introduced by Reps. Leland, Accavitti, Tobocman, Lipsey, Condino, Adamini, Hunter, McConico, Virgil Smith, Meisner and Alma Smith and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled
 "Public health code,"
 by amending section 7523 (MCL 333.7523), as amended by 1990 PA 336.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7523. (1) If property is seized pursuant to section 7522,
 2 forfeiture proceedings shall be instituted promptly. If the
 3 property is seized without process as provided under section 7522,
 4 and the total value of the property seized does not exceed
 5 \$50,000.00, the following procedure shall be used:

6 (a) The local unit of government that seized the property —
 7 or, if the property was seized by the state, the state shall notify
 8 the owner of the property that the property has been seized — and
 9 that the local unit of government or, if applicable, the state
 10 intends to forfeit and dispose of the property by delivering a

1 written notice to the owner of the property or by sending the
2 notice to the owner by certified mail. If the name and address of
3 the owner are not reasonably ascertainable, or delivery of the
4 notice cannot be reasonably accomplished, the notice shall be
5 published in a newspaper of general circulation in the county in
6 which the property was seized, for 10 successive publishing days.

7 (b) Unless all criminal proceedings involving or relating to
8 the property have been completed, the seizing agency shall
9 immediately notify the prosecuting attorney for the county in which
10 the property was seized or, if the attorney general is actively
11 handling a case involving or relating to the property, the attorney
12 general of the seizure of the property and the intention to forfeit
13 and dispose of the property.

14 (c) Any person claiming an interest in property which is the
15 subject of a notice under subdivision (a) may, within 20 days after
16 receipt of the notice or of the date of the first publication of
17 the notice, file a written claim signed by the claimant with the
18 local unit of government or the state expressing his or her
19 interest in the property. Upon the filing of the claim, and the
20 giving of a bond to the local unit of government or the state in
21 the amount of 10% of the value of the claimed property, but not
22 less than \$250.00 or greater than \$5,000.00, with sureties approved
23 by the local unit of government or the state conditioned that if
24 the property is ordered forfeited by the court the obligor shall
25 pay all costs and expenses of the forfeiture proceedings, ~~—The~~
26 **THE** local unit of government or, if applicable, the state shall
27 transmit the claim and bond with a list and description of the

1 property seized to the attorney general, the prosecuting attorney
2 for the county, or the city or township attorney for the local unit
3 of government in which the seizure was made. The attorney general,
4 the prosecuting attorney, or the city or township attorney shall
5 promptly institute forfeiture proceedings after the expiration of
6 the 20-day period. However, unless all criminal proceedings
7 involving or relating to the property have been completed, a city
8 or township attorney shall not institute forfeiture proceedings
9 without the consent of the prosecuting attorney or, if the attorney
10 general is actively handling a case involving or relating to the
11 property, the attorney general.

12 (d) If no claim is filed or bond given within the 20-day
13 period as described in subdivision (c), the local unit of
14 government or the state shall declare the property forfeited and
15 shall dispose of the property as provided under section 7524.
16 However, unless all criminal proceedings involving or relating to
17 the property have been completed, the local unit of government or
18 the state shall not dispose of the property pursuant to this
19 subdivision without the written consent of the prosecuting attorney
20 or, if the attorney general is actively handling a case involving
21 or relating to the property, the attorney general.

22 (2) Property taken or detained under this article or pursuant
23 to **FORMER** section 17766a shall not be subject to an action to
24 recover personal property, but is deemed to be in the custody of
25 the seizing agency subject only to this section or an order and
26 judgment of the court having jurisdiction over the forfeiture
27 proceedings. When property is seized under this article or pursuant

1 to **FORMER** section 17766a, the seizing agency may do any of the
2 following:

3 (a) Place the property under seal.

4 (b) Remove the property to a place designated by the court.

5 (c) Require the administrator to take custody of the property
6 and remove it to an appropriate location for disposition in
7 accordance with law.

8 (3) Title to real property forfeited under this article or
9 pursuant to **FORMER** section 17766a shall be determined by a court of
10 competent jurisdiction. A forfeiture of real property encumbered by
11 a bona fide security interest is subject to the interest ~~of~~ **IF**
12 the secured party ~~who~~ neither had knowledge of nor consented to
13 the act or omission.

14 **(4) SECTION 2975 OF THE REVISED JUDICATURE ACT OF 1961, 1961**
15 **PA 236, MCL 600.2975, APPLIES TO A MOTOR VEHICLE THAT HAS BEEN**
16 **SEIZED UNDER THIS ARTICLE BUT NOT FINALLY FORFEITED.**

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No.____ or House Bill No. 5665(request no.
19 04010'05) of the 93rd Legislature is enacted into law.