

HOUSE BILL NO. HB0107

Forfeiture of property for criminal offenses.

Sponsored by: Representative(s) Gingery, Kroeker and
Loucks and Senator(s) Case

A BILL

for

1 AN ACT relating to criminal forfeiture; creating the
2 Criminal Forfeiture Act; providing definitions; specifying
3 the procedure for seizure and forfeiture of property;
4 providing remedies; providing exceptions; conforming or
5 repealing conflicting provisions; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-7-201 through 7-7-231 are created
11 to read:

12

13

ARTICLE 2

14

CRIMINAL FORFEITURE ACT

15

16 **7-7-201. Definitions; short title; applicability.**

1

2 (a) As used in this article:

3

4 (i) "Contraband" means goods that are unlawful
5 to import, export or possess;

6

7 (ii) "Conveyance" means a device used for
8 transportation including a motor vehicle, trailer,
9 snowmobile, airplane and vessel and includes any equipment
10 attached to the conveyance. "Conveyance" does not include
11 property that is stolen or taken in violation of the law;

12

13 (iii) "Instrumentality" means property otherwise
14 lawful to possess that is used in an offense including,
15 without limitation, a tool, firearm, conveyance, computer,
16 computer software, telecommunications device or money or
17 other means of exchange;

18

19 (iv) "Law enforcement agency" means any police
20 force, multijurisdictional task force, fire department, or
21 other local, county or state agency that has the authority
22 under state or, in cooperation with a federal agency, under
23 federal law to engage in seizure and forfeiture;

24

1 (v) "Law subject to forfeiture" means a state
2 law that carries a felony penalty.

3

4 (b) This article shall be known and may be cited as
5 the "Criminal Forfeiture Act".

6

7 (c) The provisions of the Criminal Forfeiture Act
8 shall be applicable only to seizures or forfeitures
9 occurring on or after the effective date of this act.

10

11 **7-7-202. Criminal forfeiture.**

12

13 (a) When a person is convicted of violating a law
14 subject to forfeiture, the court, consistent with this
15 chapter, shall order the person to forfeit:

16

17 (i) Proceeds and property the person derived
18 directly from the commission of the crime;

19

20 (ii) Proceeds and property directly traceable to
21 proceeds and property derived directly from the commission
22 of the crime; and

23

1 (iii) Instrumentalities the person used in the
2 commission of the crime.

3

4 **7-7-203. Conviction required; standard of proof.**

5

6 (a) Property used in or derived from the violation of
7 a law is subject to forfeiture only if:

8

9 (i) The violation is of a law subject to
10 forfeiture; and

11

12 (ii) The violation is established by proof of a
13 criminal conviction.

14

15 (b) The state shall establish that seized property is
16 forfeitable under W.S. 7-7-202 by clear and convincing
17 evidence.

18

19 **7-7-204. No civil forfeiture.**

20

21 There shall be no civil forfeiture.

22

23 **7-7-205. Authorization to use forfeiture.**

24

1 (a) Except for federal forfeitures consistent with
2 W.S. 7-7-230, forfeiture may occur only pursuant to an
3 explicit grant of authority in state law. An ordinance
4 enacted by a county, municipality or other unit of
5 government authorizing forfeiture is not valid.

6

7 (b) A district attorney having jurisdiction over a
8 law subject to forfeiture has authority to pursue
9 forfeiture.

10

11 **7-7-206. Property subject to forfeiture; contraband.**

12

13 (a) Property subject to forfeiture is limited to:

14

15 (i) Land, buildings, containers, conveyances,
16 equipment, materials, products, money, securities and
17 negotiable instruments; and

18

19 (ii) Instrumentalities used in the furtherance
20 or commission of a violation of a law subject to
21 forfeiture.

22

23 (b) No property right exists in contraband, including
24 scheduled drugs without a valid prescription. Contraband

1 is subject to seizure and shall be disposed of according to
2 state law. Contraband is not subject to forfeiture under
3 this article.

4

5 **7-7-207. Substitution of assets for unreachable**
6 **property.**

7

8 Upon the state's motion following conviction, the court may
9 order the forfeiture of substitute property owned fully by
10 the defendant up to the value of unreachable property only
11 if the state proves by a preponderance of the evidence that
12 the defendant intentionally transferred, sold or deposited
13 property with a third party to avoid the court's
14 jurisdiction.

15

16 **7-7-208. No additional remedies.**

17

18 Except as otherwise provided in this article, the state
19 shall not seek additional remedies including but not
20 limited to personal money judgments.

21

22 **7-7-209. No joint-and-several liability; pro rata**
23 **forfeitures.**

24

1 (a) No defendant shall be held jointly and severally
2 liable for forfeiture awards owed by other defendants.

3

4 (b) If ownership is unclear, a court may order each
5 defendant to forfeit property on a pro rata basis
6 proportional to the proceeds that each defendant personally
7 received.

8

9 **7-7-210. Designating property subject to forfeiture.**

10

11 (a) Property subject to forfeiture shall be
12 identified by the state in an indictment of a grand jury or
13 by information in the court in any related criminal
14 proceeding in which a person with an interest in the
15 property has been simultaneously charged with a violation
16 of a law subject to forfeiture.

17

18 (b) The indictment or information shall specify the
19 time and place of the violation, identify the property and
20 particularly describe its use in the commission of the
21 crime or derivation from the commission of the crime.

22

1 (c) At any time prior to trial, the state may file an
2 ancillary charge alleging that property is subject to
3 forfeiture.

4

5 **7-7-211. Seizure with process.**

6

7 At the request of the state, a court may issue an ex parte
8 preliminary order to seize or secure property for which
9 forfeiture is sought and to provide for its custody.
10 Application, issuance, execution and return are subject to
11 state law.

12

13 **7-7-212. Seizure without process.**

14

15 (a) Property subject to forfeiture may be seized
16 without a court order if:

17

18 (i) The seizure is incident to a lawful arrest
19 or a lawful search;

20

21 (ii) The property subject to seizure has been
22 the subject of a prior judgment in favor of the state; or

23

1 (iii) The state has probable cause to believe
2 that the delay occasioned by the necessity to obtain a
3 preliminary order would result in the removal or
4 destruction of the property and that the property is
5 forfeitable under this article.

6

7 **7-7-213. Receipt for seized property.**

8

9 When property is seized, the law enforcement officer shall
10 give an itemized receipt to the person in possession of the
11 property. If the person is not present, the officer shall
12 leave a receipt in the place where the property was found,
13 if reasonably possible.

14

15 **7-7-214. Bill of particulars.**

16

17 A motion for a bill of particulars may be made before
18 arraignment, within ninety (90) days after arraignment or
19 at any later time that the court permits. A bill of
20 particulars may be amended at any time subject to
21 conditions that justice requires.

22

23 **7-7-215. Title.**

24

1 (a) At the time of the seizure or entry of a
2 restraining order the state acquires provisional title to
3 the seized property. Provisional title authorizes the
4 state to hold and protect the property.

5

6 (b) Title to the property vests with the state when
7 the trier of fact renders a final forfeiture verdict. Title
8 relates back to the time when the state acquired
9 provisional title under this section. However, title
10 acquired under this section is subject to claims by third
11 parties adjudicated pursuant to this article.

12

13 **7-7-216. Storage.**

14

15 When property is seized, the state shall use reasonable
16 diligence to secure the property and prevent waste.

17

18 **7-7-217. Bond by owner for possession.**

19

20 (a) If the owner of property that has been seized
21 seeks its possession before the criminal trial, the owner
22 may post bond or give substitute property in an amount
23 equal to the fair market value of the seized property at
24 the time the bond amount is determined.

1

2 (b) On the posting of a bond or the giving of
3 substitute property under subsection (a) of this section,
4 the state shall return the seized property to the owner
5 within a reasonable period of time not to exceed three (3)
6 business days. The forfeiture action may then proceed
7 against the bond or substitute property as if it were the
8 seized property.

9

10 (c) This section shall not apply to property
11 reasonably held for investigatory purposes.

12

13 **7-7-218. Discovery.**

14

15 Discovery is subject to the Wyoming Rules of Criminal
16 Procedure.

17

18 **7-7-219. Right to trial by jury.**

19

20 Any party to a forfeiture action has a right to trial by
21 jury.

22

23 **7-7-220. Trial proceedings.**

24

1 (a) A trial related to the forfeiture of property
2 shall be held in a single proceeding together with the
3 trial of the related alleged crime unless the defendant
4 moves to bifurcate the trial.

5

6 (b) The court, upon motion of a defendant, shall
7 separate the trial of the criminal matter against the
8 defendant from the matter related to the forfeiture of
9 property.

10

11 (c) The court, upon motion of a defendant, shall
12 allow a defendant to waive the right to trial by jury
13 related to the forfeiture of property while preserving the
14 right to trial by jury of any crime alleged.

15

16 (d) If the court bifurcates the jury trial, the court
17 shall first instruct and submit to the jury the issue of
18 the guilt or innocence of the defendant to be determined by
19 proof beyond a reasonable doubt and shall restrict argument
20 of counsel to those issues.

21

22 (e) If the court bifurcates the jury trial, each
23 party may introduce evidence in the forfeiture phase that
24 was not introduced in the criminal phase.

1

2 (f) If the jury finds a defendant guilty of the
3 related criminal offense and the defendant did not waive
4 the right to trial by jury related to the forfeiture, the
5 court shall instruct and submit to the jury the issue of
6 the forfeiture. The court may use interrogatories to
7 address the forfeiture issue.

8

9 **7-7-221. Proportionality.**

10

11 (a) Following determination by the trier of fact, the
12 owner may petition the court to determine whether the
13 forfeiture is unconstitutionally excessive under the
14 Wyoming or United States constitution.

15

16 (b) The owner has the burden of establishing that the
17 forfeiture is grossly disproportional to the seriousness of
18 the offense by a preponderance of the evidence at a hearing
19 conducted by the court without a jury.

20

21 (c) In determining whether the forfeiture of an
22 instrumentality is constitutionally excessive, the court
23 shall consider all relevant factors, including, but not
24 limited to:

1

2 (i) The seriousness of the offense and its
3 impact on the community, including the duration of the
4 activity and the harm caused by the person whose property
5 is subject to forfeiture;

6

7 (ii) The extent to which the person whose
8 property is subject to forfeiture participated in the
9 offense;

10

11 (iii) The extent to which the property was used
12 in committing the offense;

13

14 (iv) The sentence imposed for committing the
15 crime subject to forfeiture; and

16

17 (v) Whether the offense was completed or
18 attempted.

19

20 (d) In determining the value of the instrumentality
21 subject to forfeiture, the court shall consider relevant
22 factors, including, but not limited to:

23

24 (i) The fair market value of the property;

1

2 (ii) The value of the property to the person
3 whose property is subject to forfeiture including hardship
4 to the owner if the forfeiture is realized; and

5

6 (iii) The hardship from the loss of a motor
7 vehicle or other property to family members or others if
8 the property is forfeited.

9

10 (e) The court may not consider the value of the
11 instrumentality to the state in determining whether the
12 forfeiture of an instrumentality is constitutionally
13 excessive.

14

15 **7-7-222. Secured interest.**

16

17 (a) A bona fide security interest is not subject to
18 forfeiture unless the person claiming a security interest
19 had actual knowledge that the property was subject to
20 forfeiture at the time the property was seized or
21 restrained under this article.

22

1 (b) A person claiming a security interest bears the
2 burden of establishing that the validity of the interest by
3 a preponderance of the evidence.

4

5 **7-7-223. Ancillary hearing of third party interests.**

6

7 (a) A person not charged in the indictment or
8 information but who has an interest in property subject to
9 forfeiture may not intervene after the criminal trial has
10 begun.

11

12 (b) Following the entry of a verdict of forfeiture of
13 property pursuant to this article or the entry of a guilty
14 plea in court on the record, the state shall exercise
15 reasonable diligence to identify persons with a potential
16 interest in the property and make reasonable efforts to
17 give notice to potential claimants. The state shall
18 provide written notice of its intent to dispose of the
19 property to any person known or alleged to have an interest
20 in the property exempted from forfeiture under this
21 chapter, including any person potentially making claims
22 for:

23

24 (i) Court-ordered child support;

1

2 (ii) Employment-related compensation; or

3

4 (iii) Payment of unsecured debts.

5

6 (c) The notice required under this section shall also
7 be made by publication in a reasonable geographic area.

8

9 (d) A person other than the defendant asserting a
10 legal interest in the property may, within sixty (60) days
11 of the date of the notice, petition the court for a hearing
12 to adjudicate the validity of the alleged interest in the
13 property. The request for the hearing shall be signed by
14 the petitioner under penalty of perjury and state:

15

16 (i) The nature and extent of the petitioner's
17 right, title or interest in the property;

18

19 (ii) The time and circumstances of the
20 petitioner's acquisition of the right, title or interest;
21 and

22

23 (iii) Any additional facts supporting the
24 petitioner's claim and the relief sought.

1

2 (e) Upon the filing of a petition under this section,
3 the court shall schedule the hearing as soon as practicable
4 but in no event later than six (6) months after the
5 sentencing of any defendant convicted upon the same
6 indictment. The court shall issue or amend a final order
7 of forfeiture in accordance with its determination if,
8 after the hearing, the court determines that:

9

10 (i) The petitioner has a legal right, title or
11 interest in the property, and such right, title or interest
12 renders the order of forfeiture invalid in whole or in part
13 because the right, title or interest was vested in the
14 petitioner rather than the defendant or was superior to any
15 right, title or interest of the defendant at the time of
16 the property was seized or restrained under this article;
17 or

18

19 (ii) The petitioner is a bona fide purchaser for
20 value of the right, title or interest in the property and
21 was at the time of purchase without cause to believe that
22 the property was subject to forfeiture under this article.
23 The state has the burden of proof with respect to the issue
24 of whether the petitioner was without cause to believe that

1 the property was subject to forfeiture at the time of
2 purchase or other acquisition of value.

3

4 **7-7-224. Innocent joint owner.**

5

6 (a) The property of an innocent joint owner may not
7 be forfeited under any forfeiture statute. The process for
8 determining whether a person is an innocent joint owner is
9 set out in this section.

10

11 (b) A person who has any form of joint interest,
12 including joint tenancy, tenancy in common or tenancy by
13 the entirety, in property subject to forfeiture existing at
14 the time the illegal conduct giving rise to forfeiture
15 occurred and who claims to be an innocent joint owner shall
16 make a prima facie case that the person has a legal right,
17 title or interest in the property seized or restrained
18 under this article.

19

20 (c) If subsection (b) of this section is satisfied
21 and the state seeks to proceed with the forfeiture against
22 the person's ownership interest, the state shall prove by a
23 preponderance of the evidence that the person had actual

1 knowledge of the underlying crime giving rise to the
2 forfeiture or was willfully blind to its commission.

3

4 (d) If subsection (c) of this section is satisfied
5 and the person seeks to establish the person's innocent
6 owner status, the person shall show by a preponderance of
7 the evidence that the person did all that reasonably could
8 be expected under the circumstances to prohibit, abate or
9 terminate the illegal use of the property. The person may
10 show that the person did all that reasonably could be
11 expected by demonstrating, among other things, that the
12 person, to the extent permitted by law:

13

14 (i) Gave timely notice to an appropriate law
15 enforcement agency of information that led the person to
16 know the conduct giving rise to a forfeiture would occur or
17 had occurred; or

18

19 (ii) In a timely fashion revoked or made a good
20 faith attempt to revoke permission for those engaging in
21 the illegal conduct to use the property or took reasonable
22 actions in consultation with a law enforcement agency to
23 discourage or prevent the illegal use of the property.

24

1 (e) No person is required under subsection (d) of
2 this section to take steps that the person reasonably
3 believes would be likely to subject the person to physical
4 danger. If subsection (d) of this section is satisfied,
5 the court shall find that the claimant was not a party to
6 the crime and is an innocent joint owner.

7

8 (f) A person who acquired an ownership interest in
9 property after the commission of a crime giving rise to the
10 forfeiture has occurred and who claims to be an innocent
11 joint owner shall make a prima facie case that the person
12 has a legal right, title or interest in the property seized
13 or restrained under this article.

14

15 (g) If subsection (f) of this section is satisfied
16 and the state seeks to proceed with the forfeiture against
17 the person's ownership interest, the state shall prove by a
18 preponderance of the evidence that at the time the person
19 acquired the property interest the person had actual
20 knowledge that the property was subject to forfeiture or
21 was willfully blind to the commission of the crime that
22 subjected the property to forfeiture.

23

1 (h) If the state fails to meet its burden in
2 subsection (g) of this section, the court shall find that
3 the person was not a party to the crime and is an innocent
4 joint owner.

5

6 (j) An otherwise valid claim under subsection (f) of
7 this section shall not be denied on the grounds that the
8 person gave nothing of value in exchange for the property
9 if:

10

11 (i) The property is the person's primary
12 residence;

13

14 (ii) Depriving the person of the property would
15 deprive the person of the means to maintain reasonable
16 shelter in the community for the person and all dependents
17 residing with the person;

18

19 (iii) The property is not, and is not traceable
20 to, the proceeds of any criminal offense; and

21

22 (iv) The person acquired interest in the
23 property through marriage, divorce or legal separation, or
24 the person was the spouse or legal dependent of someone

1 whose death resulted in the transfer of the property to the
2 person through inheritance or probate, except that the
3 court shall limit the value of any real property interest
4 for which innocent ownership is recognized under this
5 subsection to the value necessary to maintain reasonable
6 shelter in the community for the person and all dependents
7 residing with the person.

8

9 (k) If the innocent joint owner's claim is
10 established under this section, the state shall relinquish
11 all claims of title to the property that may have vested
12 with it.

13

14 (m) If the court determines that an innocent joint
15 owner has any form of joint interest in a conveyance
16 subject to forfeiture related to operating a conveyance
17 while impaired, the court may order that the innocent joint
18 owner participate in the ignition interlock device program
19 under state law as a condition of ordering the conveyance
20 be returned to the innocent joint owner.

21

22 (n) If the court determines that an innocent joint
23 owner has any form of joint interest in property, other

1 than property described in subsection (m), the court shall
2 order the property be returned to the innocent owner.

3

4 **7-7-225. Sale of property.**

5

6 (a) If a trier of fact finds that property is to be
7 forfeited, the court shall order the state to:

8

9 (i) If applicable, return stolen property to its
10 owner;

11

12 (ii) Sell all firearms, ammunition and firearm
13 accessories to licensed firearms dealers in a commercially
14 reasonable manner; and

15

16 (iii) Sell other property in a commercially
17 reasonable manner.

18

19 **7-7-226. Prohibition on retaining property; sale**
20 **restrictions.**

21

22 The law enforcement agency that seized property forfeited
23 under this article may not retain it for its own use or
24 sell it directly or indirectly to any employee of the

1 agency, to a person related to an employee by blood or
2 marriage or to another law enforcement agency.

3

4 **7-7-227. Disposition of proceeds.**

5

6 (a) Proceeds seized and proceeds from the sale of
7 forfeited assets may be distributed only following a court
8 order. The court shall order the funds be used to pay, in
9 order of priority, for the following purposes:

10

11 (i) Storage and sale expenses;

12

13 (ii) Satisfaction of valid liens against the
14 property;

15

16 (iii) Restitution ordered to the victim of the
17 criminal offense;

18

19 (iv) Reimbursement of investigation costs
20 excluding salaries that the law enforcement agency incurred
21 in the seizure of the assets subject to the forfeiture
22 action;

23

24 (v) Court-ordered child support obligations;

1

2 (vi) Claims for compensation by the defendant's
3 employees; and

4

5 (vii) Claims for compensation by the defendant's
6 unsecured creditors.

7

8 (b) All remaining funds shall be deposited into the
9 state general fund.

10

11 **7-7-228. Disposing of property of a person deported.**

12

13 (a) This section covers procedures for disposing of
14 property when the owner is deported from the United States
15 to a foreign country.

16

17 (b) If the owner of property is deported after being
18 convicted of a violation of a state law that is subject to
19 forfeiture and the property is found to be an
20 instrumentality or proceeds of the violation of that state
21 law, the court shall enter an order disposing of the
22 property in accordance with W.S. 7-7-225 and 7-7-227.

23

1 (c) If the owner of property is deported but the
2 owner is not convicted of violating a state law that is
3 subject to forfeiture or the property is not found to be an
4 instrumentality or proceeds from the violation of a state
5 law subject to forfeiture for which the owner of the
6 property is convicted, the property shall be returned to
7 the next of kin of the person deported.

8

9 (d) If the next of kin is not known or refuses the
10 property, the state shall exercise reasonable diligence to
11 identify persons with a potential interest in the property
12 and make reasonable efforts to give notice to potential
13 claimants. The state shall provide written notice to
14 persons known or alleged to have an interest in the
15 property including other family members and any person
16 potentially making claims for court ordered child support,
17 employment related compensation or payment of debts. The
18 notice shall also be made by publication in a reasonable
19 geographic area.

20

21 (e) If no claim is made within sixty (60) days of the
22 notice's publication date, the court shall enter an order
23 disposing of the property in accordance with W.S. 7-7-225
24 and 7-7-227.

1

2 (f) A person wanting to assert a legal claim to the
3 property shall, within sixty (60) days of the date of the
4 applicable notice in subsection (d) of this section,
5 petition the court for a hearing to adjudicate the validity
6 of the alleged interest in the property. The petition for
7 the hearing shall be signed by the claimant under penalty
8 of perjury. It shall state the nature and extent of the
9 claimant's right, title or interest in the property, the
10 time and circumstances of the claimant's acquisition of the
11 right, title or interest and any additional facts
12 supporting the claim and the relief sought.

13

14 (g) The court shall schedule a hearing as soon as
15 practicable to determine if the claimant has a legal right,
16 title or interest in the property or is a bona fide
17 purchaser for value of the legal right, title or interest
18 in the property.

19

20 **7-7-229. Return of property, damages and costs.**

21

22 (a) The state shall return property to the owner
23 within a reasonable period of time not to exceed three (3)
24 business days after a court finds that:

1

2 (i) The owner had a bona fide security interest;

3

4 (ii) The owner was an innocent owner;

5

6 (iii) Charges against the owner were dismissed;

7 or

8

9 (iv) The owner was found not guilty of the
10 criminal charge that is the basis for the forfeiture
11 action.

12

13 (b) If property returned under subsection (a) of this
14 section has been damaged, the owner may make a claim in
15 court for the damages to the seized property against the
16 agency that seized the property.

17

18 (c) The state is responsible for any storage fees and
19 related costs applicable to property returned under
20 subsection (a) of this section.

21

22 **7-7-230. Interaction with federal government;**
23 **standing.**

24

1 (a) No unit of state government may transfer a
2 criminal investigation or proceeding to the federal
3 government to circumvent state forfeiture law.

4

5 (b) For a state government unit to transfer a
6 criminal investigation or proceeding that includes
7 forfeiture to the federal government, a state court shall
8 affirmatively find that:

9

10 (i) The suspected criminal activity giving rise
11 to the forfeiture is interstate in nature and sufficiently
12 complex to justify the transfer; or

13

14 (ii) The seized property is forfeitable only as
15 a violation of federal law.

16

17 (c) All funds paid by the federal government shall be
18 deposited into the state general fund. The state treasurer
19 shall credit:

20

21 (i) The state government unit involved with the
22 federal government sufficiently to reimburse it for
23 investigation costs, excluding salaries, that the state

1 government unit incurred related to the seizure of the
2 assets subject to the forfeiture action; and

3

4 (ii) The remainder to the general fund.

5

6 **7-7-231. Exemptions.**

7

8 Nothing in this article shall apply to seizures or
9 forfeitures of property pursuant to the civil process,
10 related to taxation or pursuant to W.S. 7-3-704, 11-21-103,
11 11-29-109, 11-30-107, 11-32-104, 12-3-102, 18-3-505,
12 31-11-111, 35-7-502(g), 35-7-1049(g), 35-7-1501(g),
13 35-9-806(e), 35-10-206, 36-8-316, 39-18-108(c)(i) or (xi),
14 40-10-123(a)(iii), 41-13-105(e) or 41-13-215(b)(ii).

15

16 **Section 2.** W.S. 1-40-203(b)(xi), 1-40-208(a),
17 7-2-104(c), 7-2-105(b) and (c), 7-7-103(a)(intro), 23-6-208
18 and 35-7-1049(a)(intro), (c), (d)(intro) and (e)(intro) are
19 amended to read:

20

21 **1-40-203. Victim and witness bill of rights.**

22

23 (b) Crime victims, key witnesses and, upon request,
24 other witnesses shall have the following rights:

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23

(xi) To prompt return of property seized as evidence as provided in W.S. 1-40-208 and in accordance with the Criminal Forfeiture Act;

1-40-208. Prompt return of property.

(a) Victims and witnesses have the right to have any personal property, which is not contraband, promptly returned and any real estate, subject to declaration as uninhabitable under W.S. 35-9-156(d), released to the control of the real estate owner, provided it does not interfere with prosecution, trial or appellate review of the case. Property under this subsection shall be subject to the provisions of the Criminal Forfeiture Act.

7-2-104. Authority to seize deadly weapons; disposition.

(c) Deadly weapons seized under this section shall be returned or disposed of as provided by ~~W.S. 7-2-105 unless otherwise ordered by the court~~ the Criminal Forfeiture Act.

1 7-2-105. Disposition and appraisal of property seized
2 or held; notice and order to show cause; judgment.

3
4 (b) Any property seized by a peace officer shall be
5 ~~delivered immediately to the appropriate law enforcement~~
6 ~~agency. The head of the law enforcement agency shall~~
7 ~~maintain custody of the property pending an order of~~
8 ~~disposal by the court pursuant to this section unless the~~
9 ~~property is otherwise released according to this section~~
10 subject to the provisions of the Criminal Forfeiture Act.

11
12 (c) Subject to the provisions of the Criminal
13 Forfeiture Act, if the property is lost, mislaid, abandoned
14 or unclaimed or if possession of the property is unlawful,
15 the law enforcement agency shall seek in circuit court or
16 district court an order to show cause why the property
17 should not be sold or forfeited and sold at public auction
18 or transferred to the use of the law enforcement agency. If
19 the lawful owner of the property can reasonably be
20 ascertained, the property shall be delivered to him without
21 judicial action unless the property constitutes evidence of
22 a crime, the possession of the property would be unlawful
23 or ownership and interest are in dispute.

24

1 **7-7-103. Disposition of property.**

2

3 (a) Except as otherwise provided by law, property
4 seized pursuant to a search warrant shall be disposed of ~~as~~
5 ~~follows:~~ in accordance with the provisions of the Criminal
6 Forfeiture Act.

7

8 **23-6-208. Forfeiture of devices and equipment used in**
9 **taking game illegally; procedure.**

10

11 Devices and equipment, including any firearm, weapon,
12 ammunition, trap, snare, vessel, motorized vehicle,
13 aircraft, explosive, poisonous substance, electronic device
14 or optical equipment, used in, or in aid of, a violation of
15 W.S. 23-3-102(d) or 23-3-107 may be seized by any law
16 enforcement officer of the state after hearing and upon
17 order issued by the court of original jurisdiction when the
18 value of the devices or equipment is one thousand dollars
19 (\$1,000.00) or less or by the district court for the county
20 in which the offense was charged when the value of the
21 devices or equipment is more than one thousand dollars
22 (\$1,000.00). Any device or equipment seized under this
23 section shall be forfeited to the state in accordance with
24 ~~W.S. 7-2-105~~ the provisions of the Criminal Forfeiture Act,

1 provided the device or equipment is not subject to
2 forfeiture under this section by reason of any unlawful act
3 committed without the knowledge or consent of the owner. A
4 device or equipment seized under this section shall not be
5 forfeited as provided under this section until after the
6 person has been convicted under W.S. 23-3-102(d) or
7 23-3-107 and the time for appeal has expired.

8

9 **35-7-1049. Forfeitures and seizures generally;**
10 **property subject to forfeiture.**

11

12 (a) Subject to the Criminal Forfeiture Act, the
13 following are subject to forfeiture:

14

15 (c) Prompt institution of proceedings. - In the event
16 of seizure pursuant to subsection (b) of this section,
17 proceedings ~~under~~ as provided by subsection (d) of this
18 section shall be instituted promptly.

19

20 (d) Seized property ~~not repleviabile; sealing or~~
21 ~~removal of seized property. - Property taken or detained~~
22 ~~under this section shall not be subject to replevin, but is~~
23 ~~deemed to be in the custody of the commissioner subject~~
24 ~~only to the orders and decrees of the court having~~

1 ~~jurisdiction over the forfeiture proceedings~~ is subject to
2 the provisions of the Criminal Forfeiture Act. When
3 property is seized under this act, the commissioner may,
4 subject to the Criminal Forfeiture Act:

5

6 (e) When property is forfeited under ~~this act~~ the
7 Criminal Forfeiture Act, the commissioner may:

8

9 **Section 3.** W.S. 7-7-103(a)(i) and (ii) is repealed.

10

11 **Section 4.** This act is effective July 1, 2014.

12

13

(END)