

SENATE BILL NO. 377

INTRODUCED BY GAGE, STRIZICH, HALLIGAN

IN THE SENATE

FEBRUARY 8, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 14, 1989	SECOND READING, CONCURRED IN.
MARCH 16, 1989	THIRD READING, CONCURRED IN. AYES, 95; NOES, 1.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989	RECEIVED FROM HOUSE.
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SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 5, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 6, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
DISSOLVED.

APRIL 19, 1989

ON MOTION, NEW FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 20, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, NEW FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 21, 1989

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 21, 1989

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 21, 1989

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 ~~SENATE~~ BILL NO. 377
 2 INTRODUCED BY Rep. A. Kelly
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING
 5 THOSE ITEMS SUBJECT TO FORFEITURE BECAUSE OF THEIR
 6 CONNECTION TO DANGEROUS DRUG OFFENSES; REMOVING THE
 7 MARIJUANA LIMITATION; AND AMENDING SECTION 44-12-102, MCA."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 44-12-102, MCA, is amended to read:

11 "44-12-102. Things subject to forfeiture. (1) The
 12 following are subject to forfeiture:

13 (a) all controlled substances that have been
 14 manufactured, distributed, prepared, cultivated, compounded,
 15 processed, or possessed in violation of Title 45, chapter 9;

16 (b) all money, raw materials, products, and equipment
 17 of any kind that are used or intended for use in
 18 manufacturing, preparing, cultivating, compounding,
 19 processing, delivering, importing, or exporting any
 20 controlled substance in violation of Title 45, chapter 9;
 21 ~~except-items-used-or-intended-for--use--in--connection--with~~
 22 ~~quantities-of-marijuana-in-amounts-less-than-250-grams;~~

23 (c) ~~except--as--provided--in--subsection--(2)(d);~~ all
 24 property that is used or intended for use as a container for
 25 anything enumerated in subsection (1)(a) or (1)(b);

1 (d) except as provided in subsection (2), all
 2 conveyances, including aircraft, vehicles, and vessels;
 3 ~~(i)--which, that~~ are used or intended for use in
 4 ~~unlawfully-transporting-or-in~~ any manner ~~facilitating to~~
 5 ~~facilitate~~ the transportation--of--anything--enumerated-in
 6 ~~subsection-(i)(a)-or-(i)(b)--for--the--purpose--of--sale--or~~
 7 ~~receipt-of-such-thing;~~

8 ~~(ii)--in--which--a--controlled--substance--is--unlawfully~~
 9 ~~kept, deposited, or concealed; or~~

10 ~~(iii)--in--which--a--controlled--substance--is--unlawfully~~
 11 ~~possessed--by-an-occupant~~ commission of a violation of Title
 12 45, chapter 9;

13 (e) all books, records, and research products and
 14 materials, including formulas, microfilm, tapes, and data,
 15 that are used or intended for use in violation of Title 45,
 16 chapter 9;

17 (f) all drug paraphernalia as defined in 45-10-101;

18 (g) everything of value furnished or intended to be
 19 furnished in exchange for a controlled substance in
 20 violation of Title 45, chapter 9; all proceeds traceable to
 21 such an exchange; and all money, negotiable instruments, and
 22 securities used or intended to be used to facilitate a
 23 violation of Title 45, chapter 9; and

24 (h) any ~~real--or~~ personal property constituting or
 25 derived from proceeds obtained directly or indirectly from a

1 ~~sale-of-a-controlled-substance-in~~ violation of Title 45,
2 ~~chapter 9,~~ that is punishable by more than 5 years in
3 prison; and

4 (i) all real property, including any right, title, and
5 interest in the whole of any lot or tract of land and any
6 appurtenances or improvements, that is used or intended to
7 be used in any manner or part to commit or facilitate the
8 commission of or that is derived from or maintained by the
9 proceeds resulting from a violation of Title 45, chapter 9,
10 that is punishable by more than 5 years in prison. An
11 owner's interest in real property is not subject to forfeit
12 by reason of any act or omission the owner proves to have
13 been committed or omitted without his knowledge or consent.

14 (2) (a) No A conveyance used by a person as a common
15 carrier in the transaction of business as a common carrier
16 is not subject to forfeiture under this section unless it
17 appears that the owner or other person in charge of the
18 conveyance is a consenting party or privy to a violation of
19 Title 45, chapter 9.

20 (b) No A conveyance is not subject to forfeiture under
21 this section because of any act or omission established by
22 the owner of the conveyance to have been committed or
23 omitted without his knowledge or consent.

24 (c) A forfeiture of a conveyance encumbered by a bona
25 fide security interest is subject to the interest of the

1 secured party if he neither had knowledge of nor consented
2 to any violation of Title 45, chapter 9.

3 ~~(d)---No---conveyance---or---container---is---subject---to~~
4 ~~forfeiture-under-this-section-if-it-was-used-or-intended-for~~
5 ~~use-in-transporting-less-than-250-grams-of-marijuana."~~

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 377

INTRODUCED BY GAGE, STRIZICH, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THOSE ITEMS SUBJECT TO FORFEITURE BECAUSE OF THEIR CONNECTION TO DANGEROUS DRUG OFFENSES; REMOVING REDUCING THE MARIJUANA LIMITATION; AND AMENDING SECTION 44-12-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-12-102, MCA, is amended to read:

"44-12-102. Things subject to forfeiture. (1) The following are subject to forfeiture:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9; ~~except--items--used--or--intended--for--use--in--connection--with--quantities--of--marijuana--in--amounts--less--than--250--grams,~~
EXCEPT ITEMS USED OR INTENDED FOR USE IN CONNECTION WITH QUANTITIES OF MARIJUANA IN AMOUNTS LESS THAN 60 GRAMS;

(c) ~~except--as--provided--in--subsection--(2)(d);~~ EXCEPT AS

PROVIDED IN SUBSECTION (2)(D), all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels;

~~{i}--which, that~~ are used or intended for use in ~~unlawfully--transporting--or--in~~ any manner ~~facilitating to facilitate~~ the ~~transportation--of--anything--enumerated--in~~ subsection ~~--(1)(a)--or--(1)(b)--for--the--purpose--of--sale--or--receipt--of--such--thing;~~

~~{ii}--in--which--a--controlled--substance--is--unlawfully kept, deposited, or concealed;~~ or

~~{iii}--in--which--a--controlled--substance--is--unlawfully possessed--by--an--occupant~~ commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9; all proceeds traceable to such an exchange; and all money, negotiable instruments, and securities used or intended to be used to facilitate a

1 violation of Title 45, chapter 9; and

2 (h) any ~~real--or~~ personal property constituting or
3 derived from proceeds obtained directly or indirectly from a
4 ~~sale--of--a--controlled--substance--in~~ violation of Title 45,
5 chapter 9, that is punishable by more than 5 years in
6 prison; and

7 (i) all real property, including any right, title, and
8 interest in the whole of any lot or tract of land and any
9 appurtenances or improvements, that is used or intended to
10 be used in any manner or part to commit or facilitate the
11 commission of or-that-is-derived-from-or-maintained--by--the
12 proceeds--resulting-from a violation of Title 45, chapter 9,
13 that is punishable by more than 5 years in prison. An
14 owner's interest in real property is not subject to forfeit
15 by reason of any act or omission the owner proves to have
16 been committed or omitted without his knowledge or consent.

17 (2) (a) No A conveyance used by a person as a common
18 carrier in the transaction of business as a common carrier
19 is not subject to forfeiture under this section unless it
20 appears that the owner or other person in charge of the
21 conveyance is a consenting party or privy to a violation of
22 Title 45, chapter 9.

23 (b) No A conveyance is not subject to forfeiture under
24 this section because of any act or omission established by
25 the owner of the conveyance to have been committed or

1 omitted without his knowledge or consent.

2 (c) A forfeiture of a conveyance encumbered by a bona
3 fide security interest is subject to the interest of the
4 secured party if he neither had knowledge of nor consented
5 to any violation of Title 45, chapter 9.

6 ~~{d}--No--conveyance--or--container--is--subject--to~~
7 ~~forfeiture-under-this-section-if-it-was-used-or-intended-for~~
8 ~~use-in-transporting-less-than-250-grams-of-marijuana--"~~

9 (D) NO CONVEYANCE OR CONTAINER IS SUBJECT TO
10 FORFEITURE UNDER THIS SECTION IF IT WAS USED OR INTENDED FOR
11 USE IN TRANSPORTING LESS THAN 60 GRAMS OF MARIJUANA."

-End-

HOUSE BILL NO. 377

INTRODUCED BY DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE HEALTH CARE PROVIDERS TO NOTIFY POST A NOTICE INFORMING MEDICARE PATIENTS AS TO WHETHER OR NOT THEY ACCEPT PAYMENT FOR SERVICES BASED ON A MEDICARE ASSIGNMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Medicare assignments --

notice required. (1) A health care provider shall notify GIVE NOTICE TO a medicare patient as to whether or not the provider accepts payment for services on the basis of an assignment, pursuant to section 1842(b)(3)(B)(ii) of the federal Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)), the terms of which provide that the full charge for services is the amount of the medicare approved rate for payment of the applicable service plus any deductible, coinsurance, or copayment required to be paid by the patient.

(2) ~~The notice required under subsection (1) must be given by means of an oral and a written statement prior to providing services to a medicare patient.~~ The notice REQUIRED UNDER SUBSECTION (1) must also be posted by each health care provider in a conspicuous area in his place of business.

(3) For purposes of this section, "health care provider" means a person, firm, corporation, association, or institution that provides goods or services subject to reimbursement under the federal medicare program in accordance with Title XVIII of the federal Social Security Act (42 U.S.C. 1395, et seq.).

NEW SECTION. Section 2. Codification instruction.

[Section 1] is intended to be codified as an integral part of Title 53, chapter 5, and the provisions of Title 53, chapter 5, apply to [section 1].

-End-

1 HOUSE BILL NO. 377

2 INTRODUCED BY DAILY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE HEALTH CARE
5 PROVIDERS TO NOTIFY POST A NOTICE INFORMING MEDICARE
6 PATIENTS AS TO WHETHER OR NOT THEY ACCEPT PAYMENT FOR
7 SERVICES BASED ON A MEDICARE ASSIGNMENT."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 NEW SECTION. Section 1. Medicare assignments --

11 notice required. (1) A health care provider shall notify
12 GIVE NOTICE TO a medicare patient as to whether or not the
13 provider accepts payment for services on the basis of an
14 assignment, pursuant to section 1842(b)(3)(B)(ii) of the
15 federal Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)),
16 the terms of which provide that the full charge for services
17 is the amount of the medicare approved rate for payment of
18 the applicable service plus any deductible, coinsurance, or
19 copayment required to be paid by the patient.

20 (2) ~~The--notice--required--under--subsection--(1)--must--be~~
21 ~~given--by--means--of--an--oral--and--a--written--statement--prior--to~~
22 ~~providing---services---to---a---medicare---patient;~~ The notice
23 REQUIRED UNDER SUBSECTION (1) must also be posted by each
24 health care provider in a conspicuous area in his place of
25 business.

1 (3) For purposes of this section, "health care
2 provider" means a person, firm, corporation, association, or
3 institution that provides goods or services subject to
4 reimbursement under the federal medicare program in
5 accordance with Title XVIII of the federal Social Security
6 Act (42 U.S.C. 1395, et seq.).

7 NEW SECTION. Section 2. Codification instruction.

8 [Section 1] is intended to be codified as an integral part
9 of Title 53, chapter 5, and the provisions of Title 53,
10 chapter 5, apply to [section 1].

-End-

SENATE BILL NO. 377

INTRODUCED BY GAGE, STRIZICH, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THOSE ITEMS SUBJECT TO FORFEITURE BECAUSE OF THEIR CONNECTION TO DANGEROUS DRUG OFFENSES; REMOVING REDUCING THE MARIJUANA LIMITATION; AND AMENDING SECTION 44-12-102, MCA."

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Section 1. Section 44-12-102, MCA, is amended to read:

"44-12-102. Things subject to forfeiture. (1) The following are subject to forfeiture:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9, ~~except--items--used--or--intended--for--use--in--connection--with--quantities--of--marijuana--in--amounts--less--than--250--grams,~~
EXCEPT ITEMS USED OR INTENDED FOR USE IN CONNECTION WITH QUANTITIES OF MARIJUANA IN AMOUNTS LESS THAN 60 GRAMS;

(c) ~~except--as--provided--in--subsection--(2)(d),~~ EXCEPT AS

PROVIDED IN SUBSECTION (2)(D), all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels;

~~{i}--which, that~~ are used or intended for use in ~~unlawfully--transporting--or--in~~ any manner facilitating to facilitate the ~~transportation--of--anything--enumerated--in~~ subsection ~~--{i}(a)--or--{i}(b)--for--the--purpose--of--sale--or--receipt--of--such--thing;~~

~~{ii}--in--which--a--controlled--substance--is--unlawfully kept, deposited, or concealed, or~~

~~{iii}--in--which--a--controlled--substance--is--unlawfully possessed--by--an--occupant~~ commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9; all proceeds traceable to such an exchange; and all money, negotiable instruments, and securities used or intended to be used to facilitate a

violation of Title 45, chapter 9; and

(h) any ~~real--or~~ personal property constituting or derived from proceeds obtained directly or indirectly from a ~~sale--of--a--controlled--substance--in~~ violation of Title 45, chapter 9~~r~~, that is punishable by more than 5 years in prison; and

(i) all real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used in any manner or part to commit or facilitate the commission of or-that-is-derived-from-or-maintained--by--the proceeds--resulting-from a violation of Title 45, chapter 9, that is punishable by more than 5 years in prison. An owner's interest in real property is not subject to forfeit by reason of any act or omission the owner proves to have been committed or omitted without his knowledge or consent.

(2) (a) ~~No A~~ conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of Title 45, chapter 9.

(b) ~~No A~~ conveyance is not subject to forfeiture under this section because of any act or omission established by the owner of the conveyance to have been committed or

omitted without his knowledge or consent.

(c) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to any violation of Title 45, chapter 9.

~~(d)--No--conveyance--or--container---is---subject---to forfeiture-under-this-section-if-it-was-used-or-intended-for use-in-transporting-less-than-250-grams-of-marijuana--"~~

(D) NO CONVEYANCE OR CONTAINER IS SUBJECT TO FORFEITURE UNDER THIS SECTION IF IT WAS USED OR INTENDED FOR USE IN TRANSPORTING LESS THAN 60 GRAMS OF MARIJUANA."

-End-

STANDING COMMITTEE REPORT

March 9, 1989
Page 2 of 2

March 9, 1989
Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that SENATE BILL 377 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Kelly Addy
Kelly Addy, Vice-Chairman

[REP. STRIZICH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "44-12-102"
Insert: "AND 44-12-203"
2. Page 3, line 7.
Strike: "all"
Insert: "that specific portion of"
3. Page 3, line 8.
Strike: "the whole of"
4. Page 3, line 9.
Following: "that is"
Insert: "directly"
5. Page 3, line 12.
Following: "~~from~~"
Insert: "or that is derived from or maintained by the proceeds resulting from"
6. Page 3, lines 15 and 16.
Strike: "the owner" on line 15 through "without" on line 16
Insert: "unless it is proved that the act or omission was the owner's or was with"
7. Page 3, line 16.

Following: "his"
Insert: "actual"
Following: "knowledge or"
Insert: "express"

8. Page 4, following line 11.
Insert: "Section 2. Section 44-12-203, MCA, is amended to read:

"44-12-203. Presumption -- procedure following answer or expiration of time for answering. (1) There is a rebuttable presumption of forfeiture as to all property listed in 44-12-102, except property listed in 44-12-102(1)(i).

(2) If a verified answer to the petition is not filed within 20 days after the service of the petition and summons, the court upon motion must order the property forfeited to the state.

(3) If a verified answer is filed within 20 days, the forfeiture proceedings shall be set for hearing without a jury not less than 60 days after the answer is filed. Notice of the hearing shall be given in the manner provided for service of the petition and summons." "

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1 (3) If a verified answer is filed within 20 days, the
2 forfeiture proceedings shall be set for hearing without a
3 jury not less than 60 days after the answer is filed. Notice
4 of the hearing shall be given in the manner provided for
5 service of the petition and summons."

-End-

Free Conference Committee Report
on SB 377
Report No. 1, April 21, 1989

Mr President and Mr. Speaker:

We, your Free Conference Committee on SB 377 met and considered:

The House Committee on Judiciary amendments to SB 377 (third reading copy --blue) dated March 9, 1989.

We recommend that:

The House amendments be accepted, except that the inserted language in Amendment No. 2 be stricken;

and that SB 377 (reference copy -- salmon) be amended as follows:

1. Page 3, line 8.

Strike: "THAT SPECIFIC PORTION OF"

And that this Conference Committee Report be adopted.


FOR THE SENATE


Sen. Gage, Chairman


Sen. Harding


Sen. Halligan

FOR THE HOUSE


Rep. Addy, Chairman


Rep. Strizich


Rep. Gould

ADOPT

REJECT

SB 377
fccsb377.421

SENATE BILL NO. 377

INTRODUCED BY GAGE, STRIZICH, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING THOSE ITEMS SUBJECT TO FORFEITURE BECAUSE OF THEIR CONNECTION TO DANGEROUS DRUG OFFENSES; REMOVING REDUCING THE MARIJUANA LIMITATION; AND AMENDING SECTION SECTIONS 44-12-102 AND 44-12-203, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-12-102, MCA, is amended to read:

"44-12-102. Things subject to forfeiture. (1) The following are subject to forfeiture:

(a) all controlled substances that have been manufactured, distributed, prepared, cultivated, compounded, processed, or possessed in violation of Title 45, chapter 9;

(b) all money, raw materials, products, and equipment of any kind that are used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting any controlled substance in violation of Title 45, chapter 9, ~~except items used or intended for use in connection with quantities of marijuana in amounts less than 250 grams,~~ EXCEPT ITEMS USED OR INTENDED FOR USE IN CONNECTION WITH QUANTITIES OF MARIJUANA IN AMOUNTS LESS THAN 60 GRAMS;

(c) ~~except as provided in subsection (2)(d);~~ EXCEPT AS PROVIDED IN SUBSECTION (2)(D), all property that is used or intended for use as a container for anything enumerated in subsection (1)(a) or (1)(b);

(d) except as provided in subsection (2), all conveyances, including aircraft, vehicles, and vessels;

~~{i}--which, that~~ are used or intended for use in ~~unlawfully-transporting-or-in~~ any manner ~~facilitating to~~ facilitate the transportation ~~of--anything--enumerated-in~~ subsection ~~{i}{a}-or-{i}{b}~~ ~~--for--the--purpose--of--sale--or~~ receipt ~~of-such-thing;~~

~~{ii}-in-which-a-controlled-substance-is-unlawfully~~ kept, deposited, or concealed; or

~~{iii}-in-which-a-controlled-substance-is-unlawfully~~ possessed ~~by-an-occupant~~ commission of a violation of Title 45, chapter 9;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data, that are used or intended for use in violation of Title 45, chapter 9;

(f) all drug paraphernalia as defined in 45-10-101;

(g) everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of Title 45, chapter 9; all proceeds traceable to such an exchange; and all money, negotiable instruments, and

1 securities used or intended to be used to facilitate a
2 violation of Title 45, chapter 9; and

3 (h) any ~~real--or~~ personal property constituting or
4 derived from proceeds obtained directly or indirectly from a
5 ~~sale-of-a-controlled-substance-in~~ violation of Title 45,
6 chapter 9; that is punishable by more than 5 years in
7 prison; and

8 (i) ~~all THAT--SPECIFIC--PORTION--OF~~ real property,
9 including any right, title, and interest in the-whole-of any
10 lot or tract of land and any appurtenances or improvements,
11 that is DIRECTLY used or intended to be used in any manner
12 or part to commit or facilitate the commission of or-that-is
13 derived-from-or-maintained-by-the-proceeds-resulting-from OR
14 THAT IS DERIVED FROM OR MAINTAINED BY THE PROCEEDS RESULTING
15 FROM a violation of Title 45, chapter 9, that is punishable
16 by more than 5 years in prison. An owner's interest in real
17 property is not subject to forfeit by reason of any act or
18 omission the-owner-proves-to-have-been-committed-or--omitted
19 without UNLESS IT IS PROVED THAT THE ACT OR OMISSION WAS THE
20 OWNER'S OR WAS WITH his ACTUAL knowledge or EXPRESS consent.

21 (2) (a) No A conveyance used by a person as a common
22 carrier in the transaction of business as a common carrier
23 is not subject to forfeiture under this section unless it
24 appears that the owner or other person in charge of the
25 conveyance is a consenting party or privy to a violation of

1 Title 45, chapter 9.

2 (b) No A conveyance is not subject to forfeiture under
3 this section because of any act or omission established by
4 the owner of the conveyance to have been committed or
5 omitted without his knowledge or consent.

6 (c) A forfeiture of a conveyance encumbered by a bona
7 fide security interest is subject to the interest of the
8 secured party if he neither had knowledge of nor consented
9 to any violation of Title 45, chapter 9.

10 (d) ~~No---conveyance---or---container---is---subject---to~~
11 ~~forfeiture-under-this-section-if-it-was-used-or-intended-for~~
12 ~~use-in-transporting-less-than-250-grams-of-marijuana."~~

13 (D) NO CONVEYANCE OR CONTAINER IS SUBJECT TO
14 FORFEITURE UNDER THIS SECTION IF IT WAS USED OR INTENDED FOR
15 USE IN TRANSPORTING LESS THAN 60 GRAMS OF MARIJUANA."

16 **SECTION 2. SECTION 44-12-203, MCA, IS AMENDED TO READ:**

17 "44-12-203. Presumption -- procedure following answer
18 or expiration of time for answering. (1) There is a
19 rebuttable presumption of forfeiture as to all property
20 listed in 44-12-102, except property listed in
21 44-12-102(1)(i).

22 (2) If a verified answer to the petition is not filed
23 within 20 days after the service of the petition and
24 summons, the court upon motion must order the property
25 forfeited to the state.

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1 (3) If a verified answer is filed within 20 days, the
2 forfeiture proceedings shall be set for hearing without a
3 jury not less than 60 days after the answer is filed. Notice
4 of the hearing shall be given in the manner provided for
5 service of the petition and summons."

-End-