

Hall of the House of Representatives
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 2828

"TO ALLOW MOTOR VEHICLES SEIZED BY LAW ENFORCEMENT AGENCIES TO BE
DONATED TO SCHOOL DISTRICTS FOR DRIVER'S EDUCATION COURSES."

Amendment No. 1 to House Bill No. 2828.

Amend House Bill No. 2828 as originally introduced:

Delete the title entirely and substitute:

"AN ACT TO ALLOW A FORFEITED MOTOR VEHICLE TO BE TRANSFERRED TO A SCHOOL DISTRICT FOR USE IN DRIVER EDUCATION COURSES; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"TO ALLOW A FORFEITED MOTOR VEHICLE TO BE TRANSFERRED TO A SCHOOL DISTRICT FOR USE IN DRIVER EDUCATION COURSES."

AND

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 5-64-505(h)(1), concerning property subject to forfeiture, procedures for forfeiture, and disposition of forfeited property, is amended to add an additional subdivision to read as follows:

(1) When the circuit court having jurisdiction over the property seized finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under this chapter, the court shall enter an order:

(A) To permit the law enforcement agency or prosecuting attorney to retain the property for law enforcement or prosecutorial purposes, subject to the following provisions:

(i) Property may not be retained for official use for more than two (2) years, unless the circuit court finds that the property has been used for law enforcement or prosecutorial purposes and authorizes continued use for such purposes on an annual basis. At the end of the period of retention, the property shall be sold as provided in subdivision (h)(1)(B) of this section, and eighty percent (80%) of the proceeds shall be deposited in the drug control fund of the retaining agency and twenty percent (20%) of the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Crime Lab Equipment Fund. Nothing shall prohibit the



retaining agency from selling the retained property at any time during the time allowed for retention, provided that the proceeds of such sale shall be distributed as set forth in this paragraph;

(ii) If the circuit court determines that retained property has been used for personal use or by non-law enforcement personnel for non-law enforcement purposes, the court shall order the property to be sold pursuant to the provisions of § 5-5-101(e) and (f), and the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Crime Lab Equipment Fund;

(iii) Drug task forces may use forfeited property or money, provided that the court's order specifies that the money or property is forfeited to the prosecuting attorney, sheriff, chief of police, or Arkansas State Police, or Arkansas Highway Police. The prosecuting attorney, sheriff, chief of police, or Arkansas State Police, or Arkansas Highway Police shall thereafter maintain an inventory of such property, shall be accountable for such property, and shall be subject to the provisions of subdivision (f)(5) of this section with respect to such property;

(iv) All aircraft shall be forfeited to the Office of the Arkansas Drug Director and may only be used for drug eradication or drug interdiction efforts, within the discretion of the Arkansas Drug Director. However, if the Arkansas Alcohol and Drug Abuse Coordinating Council determines that the aircraft should be sold, such sale shall be conducted pursuant to the provisions of § 5-5-101(e) and (f), and the proceeds of such sale shall be deposited in the Special State Assets Forfeiture Fund;

(v) All firearms not retained for official use shall be disposed of in accordance with state and federal law;

(vi) All controlled substances, plants, drug paraphernalia, and counterfeit substances shall be destroyed pursuant to court order;

(B) To sell that which is not required by law to be destroyed and which is not harmful to the public. Such property shall be sold at a public sale by the retaining agency, pursuant to the provisions of § 5-5-101(e) and (f);

(C) To transfer a motor vehicle to a school district for use in driver education courses;"

The Amendment was read _____
By: Representative Sumpter
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Chief Clerk