

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/24/05

A Bill

HOUSE BILL 2828

5 By: Representative Sumpter
6
7

For An Act To Be Entitled

8
9 AN ACT TO ALLOW A FORFEITED MOTOR VEHICLE TO BE
10 TRANSFERRED TO A SCHOOL DISTRICT FOR USE IN
11 DRIVER EDUCATION COURSES; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO ALLOW A FORFEITED MOTOR VEHICLE TO BE
15 TRANSFERRED TO A SCHOOL DISTRICT FOR USE
16 IN DRIVER EDUCATION COURSES.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

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

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

31 (i) Property may not be retained for official use
32 for more than two (2) years, unless the circuit court finds that the property
33 has been used for law enforcement or prosecutorial purposes and authorizes
34 continued use for such purposes on an annual basis. At the end of the period
35 of retention, the property shall be sold as provided in subdivision (h)(1)(B)
36 of this section, and eighty percent (80%) of the proceeds shall be deposited



1 in the drug control fund of the retaining agency and twenty percent (20%) of
2 the proceeds shall be deposited into the State Treasury as special revenues
3 to be credited to the Crime Lab Equipment Fund. Nothing shall prohibit the
4 retaining agency from selling the retained property at any time during the
5 time allowed for retention, provided that the proceeds of such sale shall be
6 distributed as set forth in this paragraph;

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

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

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

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

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

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

1 5-101(e) and (f);

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

4 /s/ Sumpter

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36