

INITIATIVE 778

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 778 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to repealing existing laws that authorize asset
2 forfeiture; adding new sections to chapter 10.105 RCW; creating a new
3 section; and repealing RCW 7.48.090, 7.68.300, 7.68.310, 7.68.320,
4 7.68.330, 7.68.340, 9.46.231, 9A.83.030, 9.68A.120, 10.105.010,
5 69.50.505, 77.15.070, and 82.24.130.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the
8 innocent property owner protection act.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.105 RCW
10 to read as follows:

11 (1) The people find that asset forfeiture is an action against
12 property historically based in maritime law. It is a process whereby
13 the government takes private property, such as homes, vehicles, boats,
14 and bank accounts, that is allegedly related to certain criminal
15 activity. It is not necessary that the property owner be charged with
16 or convicted of any crime. Under current law the seizing agency is
17 allowed to keep and use the forfeited property or to sell and keep

1 ninety percent of the proceeds with the remaining ten percent going to
2 the state.

3 (2) The people find asset forfeiture to be unacceptable.
4 Nationally, the United States department of justice has estimated that
5 in eighty percent of cases where assets were forfeited, no one was
6 charged with a crime. Civil asset forfeiture, in Washington as well as
7 nationally, is often used in tandem with criminal proceedings. When
8 the accused person's assets have been seized, the accused is frequently
9 then penniless to defend against both the criminal charges and the
10 civil forfeiture action. This gives the prosecution an unfair
11 advantage. The practice of asset forfeiture diminishes and degrades
12 our fundamental rights including the right to the presumption of
13 innocence until proven guilty, our private property rights, our right
14 to due process, and protection against double jeopardy. In addition,
15 asset forfeiture has had a corrupting influence on law enforcement.
16 Law enforcement agencies can become dependent on revenues from the sale
17 of forfeited property to finance some operations. Many agencies have
18 employed convicted criminals as informants to discover evidence leading
19 to forfeiture of assets. Those informants frequently work under
20 contracts that provide for the sharing of the proceeds from the sale of
21 forfeited assets with those informants.

22 NEW SECTION. Sec. 3. A new section is added to chapter 10.105 RCW
23 to read as follows:

24 Existing statutes that authorize the forfeiture of private assets
25 to government are hereby repealed. However, nothing in this act
26 prevents the seizure and destruction of personal property or materials
27 defined by statute as harmful to the public. This act shall not be
28 construed to prevent seizure and holding of evidence of a crime for
29 presentment at trial for that crime. This act shall not be construed
30 to abrogate the state Constitution or the common law regarding escheat.

31 NEW SECTION. Sec. 4. The following acts or parts of acts are each
32 repealed:

33 (1) RCW 7.48.090 (Moral nuisance--Contraband--Forfeitures) and 1979
34 c 1 s 18, 1927 c 94 s 1, & 1913 c 127 s 5;

35 (2) RCW 7.68.300 (Finding) and 1993 c 288 s 3;

36 (3) RCW 7.68.310 (Property subject to seizure and forfeiture) and
37 1993 c 288 s 4;

1 (4) RCW 7.68.320 (Seizure and forfeiture--Procedure) and 1993 c 288
2 s 5;
3 (5) RCW 7.68.330 (Seizure and forfeiture--Distribution of proceeds)
4 and 1993 c 288 s 6;
5 (6) RCW 7.68.340 (Seizure and forfeiture--Remedies nondefeatable
6 and supplemental) and 1993 c 288 s 7;
7 (7) RCW 9.46.231 (Gambling devices, real and personal property--
8 Seizure and forfeiture) and 1997 c 128 s 1 & 1994 c 218 s 7;
9 (8) RCW 9A.83.030 (Seizure and forfeiture) and 2001 c 168 s 2 &
10 1992 c 210 s 3;
11 (9) RCW 9.68A.120 (Seizure and forfeiture of property) and 1999 c
12 143 s 8 & 1984 c 262 s 11;
13 (10) RCW 10.105.010 (Seizure and forfeiture) and 1993 c 288 s 2;
14 (11) RCW 69.50.505 (Seizure and forfeiture) and 2001 c 168 s 1,
15 1993 c 487 s 1, & 1992 c 211 s 1;
16 (12) RCW 77.15.070 (Civil forfeiture of property used for violation
17 of chapter) and 2000 c 107 s 231 & 1998 c 190 s 69; and
18 (13) RCW 82.24.130 (Seizure and forfeiture) and 1999 c 193 s 3,
19 1997 c 420 s 5, 1990 c 216 s 5, 1987 c 496 s 2, 1972 ex.s. c 157 s 5,
20 & 1961 c 15 s 82.24.130.

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