

PUBLIC HEALTH CODE (EXCERPT)
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Part 75
ENFORCEMENT AND ADMINISTRATION

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Section 333.7501	Section	Arrest without warrant.
Section 333.7502	Section	Powers of agents.
Section 333.7504	Section	Administrative inspection warrants; issuance; execution; oath or affirmation showing probable cause; seizure of property; existence of probable cause; affidavit; contents of warrant.
Section 333.7505	Section	Contents, execution, and return of warrant; copy of warrant and receipt for property seized; inventory of property taken; delivering copy of inventory; filing warrant with copy of return and papers returnable.
Section 333.7507	Section	Administrative inspections of controlled premises.
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Section 333.7515	Section	Cooperation with federal and other state agencies; relying and acting upon results, information, and evidence.
Section 333.7516	Section	Name or identity of patient, research, or individual.
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Section 333.7521a	Section	Civil asset forfeiture; conditions, requirements, and limitations.
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section or to order and judgment of court; powers of seizing agency; determining title to forfeited real property; forfeiture of real property encumbered by bona fide security interest; examination of money.

[Section 333.7523a](#) Section Stay of civil forfeiture during pending criminal proceedings; forfeiture hearing; burden of proof; return of property.

[Section 333.7524](#) Section Disposition of forfeited property; donation of lights and scales for educational purposes; appointment, compensation, and authority of receiver to dispose of forfeited real property; expenses of forfeiture proceedings; court order.

[Section 333.7524a](#) Section Repealed. 2015, Act 148, Eff. Feb. 1, 2016.

[Section 333.7524b](#) Section Report by agency of seizure and forfeiture activities under uniform forfeiture reporting act.

[Section 333.7525](#) Section Controlled substance as contraband; seizure and summary forfeiture; seizure and forfeiture of species of plants.

[Section 333.7527](#) Section Destruction of controlled substance seized as evidence.

[Section 333.7531](#) Section Burden of proof of exemption or exception; presumption as to license or order form; burden of rebutting presumption; liability not imposed for lawful performance of duties.

[Section 333.7533](#) Section Judicial review.

[Section 333.7541](#) Section Educational programs; powers of administrator.

[Section 333.7543](#) Section Research and enforcement; duties of administrator.

[Section 333.7544](#) Section Authorization to withhold names and other identifying characteristics of individuals who are subjects of research; authorization of

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persons engaged in research to possess and distribute controlled substances; exemption from prosecution.

[Section 333.7545](#) Section Contracts for educational and research activities.

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333.7521 Property subject to forfeiture; burden of proof; "imitation controlled substance" defined.

Sec. 7521.

(1) The following property is subject to forfeiture:

(a) A prescription form, controlled substance, an imitation controlled substance, a controlled substance analogue, or other drug that has been manufactured, distributed, dispensed, used, possessed, or acquired in violation of this article.

(b) A raw material, product, or equipment of any kind that is used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance, a controlled substance analogue, or other drug in violation of this article; or a raw material, product, or equipment of any kind that is intended for use in manufacturing, compounding, processing, delivering, importing, or exporting an imitation controlled substance in violation of section 7341.

(c) Property that is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) Except as provided in subparagraphs (i) to (iv), a conveyance, including an aircraft, vehicle, or vessel used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision (a) or (b):

(i) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article.

(ii) A conveyance is not subject to forfeiture by reason of any act or omission established by the owner of that conveyance to have been committed or omitted without the owner's knowledge or consent.

(iii) A conveyance is not subject to forfeiture for a violation of section 7403(2)(c) or (d), section 7404, or section 7341(4).

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had

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knowledge of nor consented to the act or omission.

(e) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used, or intended for use, in violation of this article.

(f) Any thing of value that is furnished or intended to be furnished in exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article that is traceable to an exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article or that is used or intended to be used to facilitate any violation of this article including, but not limited to, money, negotiable instruments, or securities. To the extent of the interest of an owner, a thing of value is not subject to forfeiture under this subdivision by reason of any act or omission that is established by the owner of the item to have been committed or omitted without the owner's knowledge or consent. Any money that is found in close proximity to any property that is subject to forfeiture under subdivision (a), (b), (c), (d), or (e) is presumed to be subject to forfeiture under this subdivision. This presumption may be rebutted by clear and convincing evidence.

(g) Any other drug paraphernalia not described in subdivision (b) or (c).

(2) The plaintiff in a forfeiture action under this article has the burden of proving a violation of this article by clear and convincing evidence. This subsection applies to forfeiture proceedings commenced under this article on or after the effective date of the amendatory act that added this subsection.

(3) As used in this section, "imitation controlled substance" means that term as defined in section 7341.

333.7521a Civil asset forfeiture; conditions, requirements, and limitations.

Sec. 7521a.

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(1) Except as otherwise provided in this section, property may be seized as provided in section 7522 for a violation of this article, but is not subject to forfeiture under section 7521 or disposition under section 7524 unless a criminal proceeding involving or relating to the property has been completed and the defendant pleads guilty to or is convicted of a violation of this article.

(2) A criminal conviction or guilty plea under subsection (1) is not required if 1 or more of the following apply:

(a) No person claims any interest in the property as provided under section 7523 or the owner of the property withdraws his or her claim in the property.

(b) The owner of the property waives the criminal conviction or plea requirement under subsection (1) and elects to proceed with the civil forfeiture proceeding.

(c) A criminal charge has been filed and 1 or both of the following apply:

(i) The defendant is outside this state and cannot reasonably be extradited or brought back to the state for prosecution.

(ii) Reasonable efforts have been made by law enforcement authorities to locate and arrest the defendant, but the defendant has not been located.

(3) If a person withdraws his or her claim under subsection (2)(a), the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or related to the property, the attorney general, must review the seizure of the property and approve the forfeiture of the property before the property may be forfeited.

(4) Subsection (1) does not prohibit the immediate destruction of property that may not be lawfully possessed by any person or that is dangerous to the health or safety of the public regardless of whether the person is convicted of a violation of this article.

(5) This section applies to forfeiture proceedings that are initiated on or after the effective date of this amendatory act.

(6) This section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds \$50,000.00, excluding the value of contraband.

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333.7523 Seizure under MCL 333.7522; forfeiture proceedings; procedure; property subject to section or to order and judgment of court; powers of seizing agency; determining title to forfeited real property; forfeiture of real property encumbered by bona fide security interest; examination of money.

Sec. 7523.

(1) Subject to section 7521a, if property is seized under section 7522, forfeiture proceedings must be instituted promptly. If the property is seized without process under section 7522, and the total value of the property seized does not exceed \$50,000.00, the following procedure must be used:

(a) The local unit of government that seized the property or, if the property was seized by this state, the state shall notify the owner of the property that the property has been seized and, if charges have been filed against a person for a crime, the person charged, and that the local unit of government or, if applicable, the state intends to forfeit and dispose of the property by delivering a written notice to the owner of the property or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, the notice must be published on the local unit of government's or the department of the attorney general's public website and in a newspaper of general circulation in the county in which the property was seized, for 10 successive publishing days.

(b) Unless all criminal proceedings involving or relating to the property have been completed, the seizing agency shall immediately notify the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or relating to the property, the attorney general of the seizure of the property and the intention to forfeit and dispose of the property.

(c) Any person claiming an interest in property that is the subject of a notice under subdivision (a) may, within 20 days after receipt of the notice or of the date of the first publication of the notice, file a written claim signed by the claimant with the local unit of government or the state expressing his or her interest in the property and any objection to forfeiture. A claim or an

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objection under this subsection must be written, verified, and signed by the claimant, and include a detailed description of the property and the property interest asserted. The verification must include a certification under the penalty of perjury stating that the undersigned has examined the claim and believes it to be, to the best of the claimant's knowledge, true and complete. A written claim under this subsection must be made on the form developed by the state court administrative office as required under subsection (2). Upon the filing of the claim, the local unit of government or, if applicable, this state shall transmit the claim with a list and description of the property seized to the attorney general, the prosecuting attorney for the county, or the city or township attorney for the local unit of government in which the seizure was made. The attorney general, the prosecuting attorney, or the city or township attorney shall promptly institute forfeiture proceedings after the expiration of the 20-day period. However, unless all criminal proceedings involving or relating to the property have been completed, a city or township attorney shall not institute forfeiture proceedings without the consent of the prosecuting attorney or, if the attorney general is actively handling a case involving or relating to the property, the attorney general.

(d) If no claim is filed within the 20-day period as described in subdivision (c), the local unit of government or this state shall declare the property forfeited and shall dispose of the property as provided under section 7524. However, unless all criminal proceedings involving or relating to the property have been completed, the local unit of government or the state shall not dispose of the property under this subdivision without the written consent of the prosecuting attorney or, if the attorney general is actively handling a case involving or relating to the property, the attorney general.

(2) The state court administrative office shall develop and make available to law enforcement agencies, courts, and the public a form for asserting an ownership interest in seized property under subsection (1)(c). The form must require a claimant to provide a detailed description of the property, the claimant's ownership interest in the property, and a signed attestation that the claimant has a bona fide ownership interest in the property.

(3) Property taken or detained under this article is not subject to an action to recover personal property, but is deemed to be in the custody of the seizing agency subject only to this section or an order and judgment of the

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court having jurisdiction over the forfeiture proceedings. When property is seized under this article, the seizing agency may do any of the following:

- (a) Place the property under seal.
- (b) Remove the property to a place designated by the court.
- (c) Require the administrator to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
- (d) Deposit money seized under this article into an interest-bearing account in a financial institution. As used in this subdivision, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(4) Title to real property forfeited under this article must be determined by a court of competent jurisdiction. A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission.

(5) An attorney for a person who is charged with a crime involving or related to the money seized under this article must be afforded a period of 60 days within which to examine that money. This 60-day period begins to run after notice is given under subsection (1)(a) but before the money is deposited into a financial institution under subsection (3)(d). If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in forfeiture proceedings under this article, the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection (3)(d).

<http://legislature.mi.gov/doc.aspx?mcl-333-7523>