

103^D CONGRESS
1ST SESSION

H. R. 2417

To reform certain statutes regarding civil asset forfeiture.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1993

Mr. HYDE introduced the following bill; which was referred jointly to the
Committees on the Judiciary and Ways and Means

A BILL

To reform certain statutes regarding civil asset forfeiture.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Asset Forfeiture
5 Reform Act”.

6 **SEC. 2. LIMITATION OF CUSTOMS AND TAX EXEMPTION**

7 **UNDER THE TORT CLAIMS PROCEDURES.**

8 Section 2680(c) of title 28, United States Code, is
9 amended—

10 (1) by striking “law-enforcement” and inserting

11 “law enforcement”; and

1 (2) by inserting before the period the following:
2 “, except that the provisions of this chapter and sec-
3 tion 1346(b) of this title shall apply to any claim
4 based on the negligent destruction, injury, or loss of
5 goods or merchandise (including real property) while
6 in the possession of any officer of customs or excise
7 or any other law enforcement officer”.

8 **SEC. 3. LONGER PERIOD FOR FILING CLAIMS IN CERTAIN**
9 **IN REM PROCEEDINGS.**

10 Paragraph (6) of Rule C of the Supplemental Rules
11 for Certain Admiralty and Maritime Claims to the Federal
12 Rules of Civil Procedures (28 U.S.C. Appendix) is amend-
13 ed by striking out “10 days” and inserting “60 days”.

14 **SEC. 4. BURDEN OF PROOF IN FORFEITURE PROCEEDINGS.**

15 Section 615 of the Tariff Act of 1930 (19 U.S.C.
16 1615) is amended to read as follows:

17 ~~**“SEC. 615. BURDEN OF PROOF IN FORFEITURE PROCEED-**~~
18 ~~**INGS.**~~

19 “~~In—~~

20 “(1) all suits or actions (other than those aris-
21 ing under section 592) brought for the forfeiture of
22 any vessel, vehicle, aircraft, merchandise, or baggage
23 seized under the provisions of any law relating to the
24 collection of duties on imports or tonnage; and

1 “(2) in all suits or actions brought for the re-
2 covery of the value of any vessel, vehicle, aircraft,
3 merchandise, or baggage, because of violation of any
4 such law;

5 the burden of proof is on the United States Government
6 to establish, by clear and convincing evidence, that the
7 property was subject to forfeiture.”.

8 **SEC. 5. CLAIM AFTER SEIZURE.**

9 Section 608 of the Tariff Act of 1930 (19 U.S.C.
10 1608) is amended to read as follows:

11 **“SEC. 608. SEIZURE; CLAIMS; REPRESENTATION.**

12 “(a) IN GENERAL.—Any person claiming such vessel,
13 vehicle, aircraft, merchandise, or baggage may at any time
14 within 60 days from the date of the first publication of
15 the notice of seizure file with the appropriate customs offi-
16 cer a claim stating his interest therein. Upon the filing
17 of such claim, the customs officer shall transmit such
18 claim, with a duplicate list and description of the articles
19 seized, to the United States attorney for the district in
20 which seizure was made, who shall proceed to a condemna-
21 tion of the merchandise or other property in the manner
22 prescribed by law.

23 “(b) COURT-APPOINTED REPRESENTATION.—If the
24 person filing a claim under subsection (a), or a claim re-
25 garding seized property under any other provision of law

1 that incorporates by reference the seizure, forfeiture, and
2 condemnation procedures of the customs laws, is finan-
3 cially unable to obtain representation of counsel, the court
4 may appoint appropriate counsel to represent that person
5 with respect to the claim. The court shall set the com-
6 pensation for that representation, which shall—

7 “(1) be equivalent to that provided for court-ap-
8 pointed representation under section 3006A of title
9 18, United States Code, and

10 “(2) be paid from the Justice Assets Forfeiture
11 Fund established under section 524 of title 28, Unit-
12 ed States Code.”.

13 **SEC. 6. RELEASE OF SEIZED PROPERTY FOR SUBSTANTIAL**
14 **HARDSHIP.**

15 Section 614 of the Tariff Act of 1930 (19 U.S.C.
16 1614) is amended—

17 (1) by inserting before the first word in the sec-
18 tion the following: “(a) RELEASE UPON PAY-
19 MENT.—”; and

20 (2) by adding at the end the following new sub-
21 section:

22 “(b) RELEASE OF SEIZED PROPERTY FOR SUBSTAN-
23 TIAL HARDSHIP.—

24 “(1) REQUEST FOR RELEASE.—A claimant is
25 entitled to immediate release of seized property if

1 continued possession by the United States Govern-
2 ment would cause the claimant substantial hardship.
3 A claimant seeking release of property under this
4 subsection must request possession of the property
5 from the appropriate customs officer, and the re-
6 quest must set forth the basis therefor. If within 10
7 days after the date of the request the property has
8 not been released, the claimant may file a complaint
9 in any district court that would have jurisdiction of
10 forfeiture proceedings relating to the property set-
11 ting forth—

12 “(A) the nature of the claim to the seized
13 property;

14 “(B) the reason why the continued posses-
15 sion by the United States Government pending
16 the final disposition of forfeiture proceedings
17 will cause substantial hardship to the claimant;
18 and

19 “(C) the steps the claimant has taken to
20 secure release of the property from the appro-
21 priate customs officer.

22 “(2) RETURN OF PROPERTY.—If a complaint is
23 filed under paragraph (1), the district court shall
24 order that the property be returned to the claimant,
25 pending completion of proceedings by the United

1 States Government to obtain forfeiture of the prop-
2 erty, if the claimant shows that—

3 “(A) the claimant is likely to demonstrate
4 a possessory interest in the seized property; and

5 “(B) continued possession by the United
6 States Government of the seized property is
7 likely to cause substantial hardship to the
8 claimant.

9 The court may place such conditions on release of
10 the property as it finds are appropriate to preserve
11 the availability of the property or its equivalent for
12 forfeiture.

13 “(3) TIME FOR DECISION.—The district court
14 shall render a decision on a complaint filed under
15 paragraph (2) no later than 30 days after the date
16 of the filing, unless such 30-day limitation is ex-
17 tended by consent of the parties or by the court for
18 good cause shown.”.

19 **SEC. 7. JUSTICE ASSETS FORFEITURE FUND.**

20 Section 524(c) of title 28, United States Code, is
21 amended—

22 (1) by striking out “law enforcement pur-
23 poses—” in the matter preceding subparagraph (A)
24 in paragraph (1) and inserting “purposes—”;

1 (2) by redesignating subparagraphs (H) and (I)
2 in paragraph (1) as subparagraphs (I) and (J), re-
3 spectively;

4 (3) by inserting after subparagraph (G) of
5 paragraph (1) the following new subparagraph:

6 “(H) payment of court-awarded compensation
7 for representation of claimants pursuant to section
8 608(b) of the Tariff Act of 1930;” and

9 (4) by striking out “(H)” in subparagraph (A)
10 of paragraph (9) and inserting “(I)”.

11 **SEC. 8. CLARIFICATION REGARDING FORFEITURES UNDER**
12 **THE CONTROLLED SUBSTANCES ACT.**

13 Section 511(a)(7) of the Controlled Substances Act
14 (21 U.S.C. 881(a)(7)) is amended by striking out “with-
15 out the knowledge or consent of that owner.” and insert-
16 ing “either without the knowledge of that owner or with-
17 out the consent of that owner.”.

18 **SEC. 9. APPLICABILITY.**

19 The amendments made by this Act apply with respect
20 to claims, suits, and actions filed on or after the date of
21 the enactment of this Act.

○