

Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 1689.

House Bill 1689 would expressly authorize the court, in a forfeiture proceeding, to determine whether a seizing agency or forfeiting authority abused its discretion or was clearly erroneous in making a finding, determination, or recommendation of forfeiture. It is my understanding that the intent of the bill was to codify the dissenting opinion in a recent Court of Appeals case relating to the forfeiture of a motor vehicle.

The forfeiture laws, codified in Section 297 of Article 27 of the Annotated Code of Maryland, are one of the ways the State has decided to punish and deter illegal narcotics activity. Forfeiture provides law enforcement with a tool to deprive violators of the instrumentalities of their enterprise.

Prosecutors, law enforcement officials and others have requested a veto of House Bill 1689 because it would place an undue burden on the process by which these officials exercise their executive responsibility. It is argued that application of the bill could require the appearance of police chiefs and State's Attorneys to defend their actions, potentially in each and every decision to forfeit property. This result would thwart the State's efforts in combatting illegal narcotics activity.

Article 27, Section 297 contains a number of safeguards, both on the front end and back end of forfeiture proceedings. There are standards and procedures which must be followed by both the seizing agency (police department) and forfeiting authority (State's Attorney) before instituting a forfeiture proceeding. Under current law, a forfeiture proceeding is conducted before the court. The statute further provides for remission or mitigation when, for example, it is shown that the value of the seized property far exceeds the seriousness of the particular violation. The court also has the authority to take "action to protect rights of innocent persons which is in the interest of justice" and not inconsistent with provisions of Section 297.

Further, I am concerned that neither the public nor members of the General Assembly had the benefit of a full debate on the merits of House Bill 1689. I understand that the bill was introduced very late in the Session because the sponsor wanted to specifically address the Court of Appeals decision filed on March 15, 1994. However, the hearing for the bill in the House of Delegates was advertised as a "sponsor only" hearing, and there was no hearing at all in the Senate. I believe that a bill with such great potential impact on law enforcement requires further review and discussion.

While recent efforts of law enforcement and other governmental entities have produced some impressive results on the war against drugs and weapons trafficking, that war rages on. It continues to affect more and more children at ever younger ages. The public deserves and demands from its elected officials a strong response to the continuing