In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed Senate Bill 463.

This legislation would modify the provisions of Article 27, § 297 which pertain to the forfeiture of vehicles and other conveyances used in drug trafficking activities. While this legislation would appear to be designed to assist law enforcement efforts, in practical effect this bill would hamper that effort by making the forfeiture process substantially more difficult and cumbersome. This is especially troublesome to me at a time when the State is seeking methods to more aggressively combat the proliferation of drugs in our society and the devastation it produces to the health, safety and welfare of our citizens.

Existing Article 27, § 297(a)(4) provides that all conveyances used or intended for use in violation of the controlled dangerous substances laws are subject to seizure and forfeiture. The procedures set out by § 297(f)(3) calls for the seizing officer to refer the question of forfeiture to the chief law enforcement officer who must personally review the case, and, using the guidelines set forth in § 297(f)(1), decide whether to recommend forfeiture to the State's Attorney. The State's Attorney must then determine independently that forfeiture is justified before a petition for forfeiture is filed with the Court.

The provisions of § 297(f)(1) are drafted as guidelines only and refer to general factors such as the total circumstances of a case, the possession of controlled dangerous substances, the criminal record of the violator, previous related convictions of the violator, the circumstances of the arrest, and the manner in which the vehicle was being used. Clearly, such factors are to imprecise and open-ended to be intended as standards for compliance by the executive branch officials and subject to judicial review. This has been the consistent construction of § 297 as interpreted by the intermediate appellate courts of Maryland. See, State v. One 1985 Ford, 72 Md. App. 144 (1987).

The history of § 297 indicates numerous cases in which the trial courts have refused to order forfeiture. The appellate courts as a result have admonished the trial courts that § 297 was intended to be applied literally and harshly and that the trial judges may not second-guess the law enforcement community as to whether § 297(f)(1) does or does not justify forfeiture. It is clear from these cases that but for the repeated insistence of the appellate courts, the forfeiture statute would not be effective.

This legislation proposes to overrule this line of appellate cases and to elevate the open-ended guidelines of § 297(f)(1) to the status of standards, imposing new burdens of proof for forfeiture. Allowing these guidelines to be so elevated without more precisely defining the factors would, in essence, result in the denial of many forfeitures and in the evisceration of the forfeiture statute. This would be a significant and detrimental