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IN THE HOUSE BY JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the seizure and forfeiture of certain conveyances used in the transportation of illegally possessed narcotic drugs; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. Any vessel, vehicle, aircraft or other conveyance used in the transportation of any illegally possessed narcotic drug, shall be seized and forfeited to the state in a proceeding in rem by order of the court issuing the process by virtue of which the conveyance was seized, or before which the person violating the law, or the conveyance is taken, by the officer or officers making the seizure. An illegally possessed narcotic drug is any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States or of this state dealing therewith; or which has been acquired or is possessed, sold, transferred, or offered for sale, in violation of any laws of the United States or of this state dealing therewith; or which has been acquired by theft, robbery, or burglary.

Sec. 2. The court having jurisdiction over the conveyance so seized shall order an immediate hearing as to whether the conveyance was being used in the transportation of any illegally possessed narcotic drug, and take such evidence as is offered and

1 determine the same as in civil cases. Should the court find from
2 a preponderance of the testimony that the conveyance so seized was
3 being used for the transportation of any illegally possessed
4 narcotic drug, it shall render judgment accordingly and declare
5 the conveyance forfeited to the state. Thereupon, the conveyance
6 shall be delivered to the Department of Public Safety under the
7 order of said court, to be sold at public auction.

8 Sec. 3. No conveyance used as a common carrier, in the
9 transaction of business as such common carrier, shall be forfeited
10 under the provisions of this Act unless the owner or other person
11 legally in charge of the conveyance was at the time of the alleged
12 illegal act a consenting party or privy thereto. No conveyance
13 shall be forfeited by reason of any act or omission established
14 by the owner thereof to have been committed or omitted by any
15 person other than such owner while such conveyance was unlawfully
16 in the possession of a person who acquired possession thereof in
17 violation of the criminal laws of the United States or this state.
18 No conveyance shall be forfeited under the provisions of this Act,
19 unless the owner of the conveyance was, at the time of the alleged
20 illegal act, a consenting party to said illegal act or privy
21 thereto. A person holding any lien, mortgage or conditional sales
22 contract on a conveyance seized under the provisions of this Act
23 may appear before the court in the proceeding for forfeiture to
24 petition for remittance or mitigation of the forfeiture. The court
25 shall remit or mitigate the forfeiture if it determines that the
26 petitioner has an interest in the conveyance which he acquired in
27 good faith and without knowledge or reason to believe that the
28 conveyance was being or would be used in the transportation of any
29 illegally possessed narcotic drug.

1 Sec. 4. When used in this Act:

2 (1) the term "conveyance" includes any vessel, vehicle,
3 trailer or aircraft.

4 (2) the term "narcotic drug" means any narcotic drug
5 as now or hereafter defined by the federal internal revenue laws,
6 or the regulations issued thereunder, the federal Marihuana Tax
7 Act of 1937, or the regulations issued thereunder.

8 Sec. 5. This Act takes effect on the day after its passage
9 and approval or on the day it becomes law without such approval.

10 Passed by the House February 23, 1961

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