

Introduced: 5/7/77
Referred: Judiciary

BY RAY, COLLETTA, FERGUSON
AND HACKNEY

1 IN THE SENATE

2 SENATE BILL NO. 356

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to alcoholic beverages; and providing
7 for an effective date."

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

9 * Section 1. AS 04.15.110 is amended to read:

10 Sec. 04.15.110. SALE IN VIOLATION OF LOCAL OPTION. Notwithstanding
11 any other provision of this chapter, a person who unlawfully sells or
12 offers for sale an intoxicating liquor in an area where the local option
13 election has made these activities illegal is, upon conviction, guilty
14 of

15 (1) a misdemeanor and punishable by imprisonment for a period
16 not to exceed one year, or by a fine not to exceed \$5,000, or by both;

17 (2) a felony punishable by imprisonment for a period not to
18 exceed six years, or by a fine not to exceed \$30,000, or by both, if, in
19 addition to the sale or offer for sale,

20 (A) the sale or offer for sale was made to a person
21 under the age of 19 years or to an intoxicated person;

22 (B) he has previously been convicted under this section;

23 or

24 (C) he engaged in conduct demonstrating an intent to
25 sell or offer for sale intoxicating liquor to more than one person.

26 * Sec. 2. AS 04.15 is amended by adding a new section to read:

27 Sec. 04.15.120. FORFEITURES. (a) The following are subject to
28 forfeiture, except as provided in (d) of this section:

29 (1) intoxicating liquor which has been possessed, manufactured,

1 distributed, transported, sold or offered for sale in violation of secs.
2 35 and 110 of this chapter and AS 04.10.010, and any materials and
3 equipment which are used in manufacturing, possessing, distributing,
4 transporting, selling or offering for sale the intoxicating liquor; and

5 (2) conveyances including, but not limited to, aircraft,
6 vehicles or vessels which are used to transport or in any manner to
7 facilitate transportation of property described in (1) of this sub-
8 section.

9 (b) Property subject to forfeiture under this section may be
10 seized under an order issued by the superior court having jurisdiction
11 over the property upon a showing of probable cause that the property is
12 subject to forfeiture under (a) of this section. Seizure without a
13 court order may be made if

14 (1) the seizure is incident to a valid arrest or search;

15 (2) the property subject to seizure has been the subject of
16 a prior judgment in favor of the state; or

17 (3) there is probable cause to believe that the property is
18 subject to forfeiture under (a) of this section and the property is
19 easily movable property seized under this paragraph may not be held
20 over 48 hours or until an order may be applied for and issued by the
21 court, whichever is earlier.

22 (c) Property subject to forfeiture under this section may be
23 forfeited upon conviction of the defendant, or upon a finding by the
24 superior court having jurisdiction over the property, in a civil pro-
25 ceeding in rem brought by the state, that the property was used in a
26 manner subjecting it to forfeiture under (a) of this section.

27 (d) The following limitations shall be placed on forfeitures under
28 this section:

29 (1) no property shall be forfeited if the owner of the

1 property shows that the use of the property subjecting it to forfeiture
2 was committed by another person and that the owner was not privy to the
3 violation subjecting it to forfeiture;

4 (2) a forfeiture of property encumbered by a bona fide
5 security interest is subject to that interest if the secured party shows
6 that the use of the property subjecting it to forfeiture was committed
7 by another person and that the secured party was not privy to the viola-
8 tion subjecting it to forfeiture.

9 (e) Property forfeited under this section shall be placed in the
10 custody of the commissioner of public safety for disposition according
11 to law and any order entered by the court.

12 (f) The court shall order destroyed any property forfeited under
13 this section which is harmful to the public, and as to other property
14 shall order it to be sold with the proceeds to be used for payment of
15 all proper expenses of the proceedings for forfeiture and sale, in-
16 cluding expenses of seizure, custody and court costs, the remainder to
17 be transmitted to the proper state office for deposit in the general
18 fund.

19 * Sec. 3. AS 04.15.035(c) and 04.15.050 are repealed.

20 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
21 070(c).

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