

Introduced: 2/24/78  
Referred: Resources and  
Judiciary

BY THE RULES COMMITTEE BY REQUEST OF  
THE SPECIAL EMPLOYMENT RESOURCES AND  
OPPORTUNITIES COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 523

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to judicial forfeitures."

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

8 \* Section 1. AS 16.05.190 is amended to read:

9 Sec. 16.05.190. SEIZURE WITHOUT WARRANT AND CONFISCATION BY COURT.  
10 Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other  
11 vehicles, sleds, and other paraphernalia used in or in aid of a violation  
12 of this chapter, or rule or regulation of the department may be seized  
13 under a valid search, and all fish and game, or parts of fish and game,  
14 or nests or eggs of birds, taken, transported, or possessed contrary to  
15 the provisions of this chapter, or rule or regulation of the department  
16 shall be seized by any person designated in sec. 150 of this chapter.  
17 Upon conviction of the offender or upon judgment of the court having  
18 jurisdiction that the item was taken, transported, or possessed in  
19 violation of this chapter or rule or regulation of the department, all  
20 fish and game, or parts of them are forfeited to the state and shall be  
21 disposed of as directed by the court. If sold, the proceeds of the sale  
22 shall be transmitted to the proper state officer for deposit in the  
23 general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or  
24 other vehicles, sleds, and other paraphernalia seized under the provi-  
25 sions of this chapter, or rule or regulation of the department, unless  
26 forfeited by order of the court under secs. 195 and 197 of this chapter,  
27 shall be returned, after completion of the case and payment of the fine,  
28 if any.

29 \* Sec. 2. AS 16.05 is amended by adding a new section to read:

1           Sec. 16.05.197. LIMITATIONS ON CONFISCATION OR FORFEITURE. (a)

2 No vessel, aircraft, or other motor vehicle used as a common carrier in  
3 the transaction of business as a common carrier may be confiscated and  
4 forfeited under secs. 190 - 195 of this chapter unless the owner or other  
5 person legally in charge of the vessel, aircraft, or other motor vehicle  
6 was at the time of the illegal act a consenting party or privy to it.

7           (b) No vessel, aircraft, or other motor vehicle may be forfeited  
8 because of an act or omission established by the owner of it to have  
9 been committed or omitted by another person while the vessel, aircraft,  
10 or other motor vehicle was unlawfully in the possession of a person who  
11 acquired possession of it in violation of the criminal laws of the United  
12 States, of another state, or of this state.

13           (c) No vessel, aircraft, or other motor vehicle may be forfeited  
14 under secs. 190 - 195 of this chapter, unless the owner of it was, at  
15 the time of the illegal act, a consenting party to the illegal act or  
16 privy to it.

17           (d) A person holding a lien, mortgage or conditional sales contract  
18 on a vessel, aircraft, or other motor vehicle seized under secs. 190 -  
19 195 of this chapter may appear before the court in the proceeding for  
20 forfeiture to petition for remittance or mitigation of the forfeiture.  
21 The court shall remit or mitigate the forfeiture if it finds that the  
22 petitioner has an interest in the vessel, aircraft, or other motor  
23 vehicle which he acquired in good faith and without knowledge or reason  
24 to believe that it was being or would be used in or in aid of a violation  
25 of AS 16 or a regulation promulgated under AS 16.