

Introduced: 1/15/79
Referred: Judiciary

1 IN THE SENATE

BY SUMNER

2 SENATE BILL NO. 7

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST 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 viola-
12 tion of this chapter [, OR RULE] or regulation of the department may be
13 seized under a valid search, and all fish and game, or parts of fish and
14 game, or nests or eggs of birds, taken, transported, or possessed con-
15 trary to the provisions of this chapter [, OR RULE] or regulation of the
16 department shall be seized by any person designated in AS 16.05.150.
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,
26 unless forfeited by order of the court under AS 16.05.195 - 16.05.197.
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 AS 16.05.190 - 16.05.195 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
12 United States, of another state, or of this state.

13 (c) No vessel, aircraft, or other motor vehicle may be forfeited
14 under AS 16.05.190 - 16.05.195, unless the owner of it was, at the time
15 of the illegal act, a consenting party to the illegal act or privy to
16 it.

17 (d) A person holding a lien, mortgage or conditional sales con-
18 tract on a vessel, aircraft, or other motor vehicle seized under
19 AS 16.05.190 - 16.05.195 may appear before the court in the proceeding
20 for forfeiture to petition for remittance or mitigation of the for-
21 feiture. The court shall remit or mitigate the forfeiture if it finds
22 that the petitioner has an interest in the vessel, aircraft, or other
23 motor vehicle which he acquired in good faith and without knowledge or
24 reason to believe that it was being or would be used in or in aid of a
25 violation of AS 16 or a regulation adopted under AS 16.

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