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Referred: Judiciary
and Finance

BY RODEY, FAIKS,
AND KERTTULA

1 IN THE SENATE

2

SENATE BILL NO. 413

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to illegally controlled enterprises
7 and the forfeiture of property that is used in vio-
8 lation of state law; and providing for an effective
9 date."

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

11 * Section 1. DECLARATION OF LEGISLATIVE PURPOSE. The legislature has
12 determined that the acquisition, establishment, or operation of legitimate
13 and illegitimate enterprises in Alaska through a pattern of criminal activ-
14 ity is inimical to the continued health of our economic and social systems.
15 The purpose of this Act is to provide appropriate penalties and severe
16 financial disincentives that can be applied to combat this type of conduct.
17 The legislature intends that this Act be liberally construed to effectuate
18 its remedial purpose.

19 * Sec. 2. AS 11 is amended by adding a new chapter to read:

20 CHAPTER 59. ILLEGALLY CONTROLLED ENTERPRISES.

21 ARTICLE 1. PROHIBITED ACTIVITIES.

22 Sec. 11.59.010. UNLAWFUL ACTS. It is unlawful for a person to

- 23 (1) acquire or maintain, directly or indirectly, an inter-
24 est in or control of an enterprise through racketeering;
25 (2) participate in or conduct, directly or indirectly, the
26 affairs of an enterprise through racketeering; or
27 (3) use or invest property derived, directly or indirectly,
28 from racketeering, or the proceeds of that property, to acquire or
29 maintain an interest in or control of an enterprise or to participate

1 in or conduct the affairs of an enterprise.

2 Sec. 11.59.030. PROOF OF RACKETEERING. (a) The instances of
3 illegal activity used to establish racketeering must include

4 (1) one instance of illegal activity that is in violation
5 of state law;

6 (2) one instance of illegal activity that occurred after
7 the effective date of this Act; and

8 (3) one instance of illegal activity that was committed
9 three years before or after the alleged acquisition or maintenance of
10 an interest in or control of the enterprise, or the alleged participa-
11 tion in or conducting of the affairs of the enterprise as described in
12 AS 11.59.010.

13 (b) The requirements of (a) of this section may be satisfied by
14 a single instance of illegal activity.

15 (c) Past illegal activity may be used to establish racketeering
16 if less than five years have elapsed between the date of the most
17 recent instance of illegal activity and the immediately preceding
18 instance of illegal activity.

19 (d) Illegal activity that is used to establish racketeering may
20 be proved by

21 (1) a certified copy of a judgment of conviction;

22 (2) proof beyond a reasonable doubt in a criminal prose-
23 cution under AS 11.59.040 or 11.59.050; or

24 (3) proof by a preponderance of the evidence in a proceed-
25 ing under AS 11.59.070 - 11.59.120.

26 (e) For purposes of calculating the three-year period specified
27 in (a)(3) of this section and the five-year period specified in (c) of
28 this section, a period of imprisonment, probation, parole, conditional
29 executive clemency, suspended imposition of sentence, formal deferred

1 prosecution or formal pretrial diversion must be excluded.

2 ARTICLE 2. CRIMES INVOLVING ILLEGALLY
3 CONTROLLED ENTERPRISES.

4 Sec. 11.59.040. ILLEGAL CONTROL OF AN ENTERPRISE IN THE FIRST
5 DEGREE. (a) A person commits the crime of illegal control of an
6 enterprise in the first degree if the person violates AS 11.59.050,
7 and if one of the instances of illegal activity used to establish
8 racketeering was

- 9 (1) an unclassified or class A felony in the state; or
10 (2) a crime in the state or in another jurisdiction having
11 elements similar to a current class A felony or unclassified felony in
12 the state.

13 (b) Illegal control of an enterprise in the first degree is an
14 unclassified felony and is punishable as specified in AS 12.55.125(i).

15 Sec. 11.59.050. ILLEGAL CONTROL OF AN ENTERPRISE IN THE SECOND
16 DEGREE. (a) A person commits the crime of illegal control of an
17 enterprise in the second degree if the person violates AS 11.59.010 or
18 attempts or solicits a violation of AS 11.59.010.

19 (b) Illegal control of an enterprise in the second degree is a
20 class A felony.

21 Sec. 11.59.060. CHARGING UNDERLYING ACT. In a criminal prose-
22 cution under AS 11.59.040 or 11.59.050, a violation of a criminal law
23 that is used to prove racketeering may be charged as a separate count
24 in the same indictment or information as the violation of AS 11.59.040
25 or 11.59.050.

26 ARTICLE 3. CIVIL REMEDIES.

27 Sec. 11.59.070. EFFECT OF CONVICTION ON OTHER PROCEEDINGS. A
28 criminal conviction for a violation of AS 11.59.040 or 11.59.050
29 estops the defendant from denying the essential allegations of the

1 crime in a subsequent proceeding brought by a party under this chap-
2 ter, a forfeiture proceeding under AS 09.50, or under another pro-
3 vision of law.

4 Sec. 11.59.080. CIVIL ACTION FOR TREBLE DAMAGES. (a) A person,
5 including the state or other governmental agency, that is injured in
6 business or property by reason of a violation of AS 11.59.010 may
7 bring an action in the superior court for three times the amount of
8 damages sustained.

9 Sec. 11.59.090. PROPERTY SUBJECT TO FORFEITURE. Property, or
10 the proceeds of property, is subject to forfeiture to the state under
11 AS 09.50 if

12 (1) acquired or maintained in violation of, or in the
13 course of violating, AS 11.59.010;

14 (2) used or invested in violation of, or in the course of
15 violating, AS 11.59.010; or

16 (3) derived, directly or indirectly, from racketeering.

17 Sec. 11.59.100. INJUNCTIVE RELIEF. (a) In addition to any
18 other action authorized by law, the attorney general may bring a
19 separate ex parte action in the superior court to enjoin a violation
20 of AS 11.59.010. The superior court may prevent or restrain viola-
21 tions of AS 11.59.010 by issuing appropriate temporary or permanent
22 orders that may include divestiture of an interest in an enterprise,
23 performance bonds, reasonable restrictions on future activities or in-
24 vestments, the attachment and freezing of assets, prohibitions against
25 engaging in the same type of activities as the enterprise engaged in,
26 and dissolution or reorganization of an enterprise, making appropriate
27 provision for the rights of innocent persons.

28 (b) At any time after a civil or criminal proceeding arising out
29 of a violation of AS 11.59.010 has been instituted, the superior court

1 may issue appropriate orders and injunctive relief that may include
2 the remedies listed in (a) of this section, or another order to pre-
3 vent disposal or diminution in value of property subject to forfeiture
4 under AS 11.59.090(1) or (2) or subject to a claim for damages under
5 AS 11.59.080.

6 (c) Upon a criminal conviction or a civil judgment, including an
7 order of forfeiture, arising out of a violation of AS 11.59.010, the
8 superior court may issue appropriate orders that may include the
9 remedies listed in (a) of this section.

10 Sec. 11.59.110. CIVIL INVESTIGATIVE DEMAND. (a) Whenever there
11 is reason to believe that a person or enterprise may be in possession,
12 custody, or control of a document or other material that may be rele-
13 vant to an investigation relating to a violation of AS 11.59.010, the
14 attorney general may, before the institution of a civil or criminal
15 proceeding, issue a written investigative demand requiring the produc-
16 tion of the material for examination.

17 (b) A demand for material must

18 (1) state the nature of the conduct that is under inves-
19 tigation;

20 (2) describe the class or classes of documentary or other
21 material to be produced with such definiteness and certainty as to
22 permit the material to be readily identified; and

23 (3) state that the demand must be complied with immediately
24 if there is reason to believe that the material sought may be con-
25 cealed, destroyed, or tampered with, or specify a date that will
26 provide a reasonable period of time within which the material may be
27 assembled and made available for inspection and copying or reproduc-
28 tion.

29 (c) Service of a demand for materials under this section may be

1 made by

2 (1) delivering a copy to a partner, executive officer,
3 managing agent, or general agent of an enterprise, or to an agent
4 authorized to receive service of process on behalf of an enterprise,
5 or to an individual person;

6 (2) delivering a copy to the principal office or place of
7 business of the person to be served; or

8 (3) depositing a copy in the United States mail, by regis-
9 tered or certified mail addressed to the principal office or place of
10 business of the person to be served.

11 (d) A person upon whom a demand issued under this section has
12 been served shall make the material available for inspection and
13 copying by the attorney general at the principal place of business of
14 the person, or at another place the attorney general may direct.
15 Failure to comply with a civil investigative demand under this section
16 is punishable in the superior court as contempt, to the same extent as
17 contempt of an order issued from that court.

18 (e) The attorney general may take physical possession of the
19 materials produced, and is responsible for their return under this
20 section. Material may not be made available for examination by an
21 individual other than the attorney general, without the consent of the
22 person who produced the material. Under the terms the attorney gen-
23 eral prescribes, documentary material must be available for examina-
24 tion by the person who produced the material, or an authorized rep-
25 resentative of that person.

26 (f) Within 90 days after the production of an original document
27 or other material, or upon the completion of the investigation for
28 which the original material was produced under this section, or upon
29 completion of a case or proceeding arising from an investigation,

1 whichever is sooner, the attorney general shall return all original
2 material that has not passed into the control of a court or grand
3 jury. For good cause, the superior court may grant the attorney
4 general an extension of time to return the material.

5 Sec. 11.59.120. ATTEMPT OR SOLICITATION TO VIOLATE AS 11.59.010.
6 In AS 11.59.070 - 11.59.120, the term "violation of AS 11.59.010", or
7 a similar phrase, includes an attempt or solicitation under AS 11.31
8 to violate AS 11.59.010.

9 ARTICLE 4. GENERAL PROVISIONS.

10 Sec. 11.59.900. DEFINITIONS. (a) In this chapter, unless the
11 context requires otherwise,

12 (1) "enterprise" includes an individual, partnership,
13 corporation, association, or other legal entity, and a union or group
14 of persons associated in fact although not a legal entity;

15 (2) "illegal activity" means

16 (A) a felony against the person under AS 11.41;

17 (B) a crime against property under AS 11.46, punish-
18 able as a class B felony;

19 (C) a felony against public administration under
20 AS 11.56, a felony against public order under AS 11.61, a felony
21 involving alcoholic beverages under AS 04 or a felony involving
22 securities or takeover bids under AS 45.55 or 45.57;

23 (D) a crime involving controlled substances under
24 AS 11.71, punishable as an unclassified or class A or B felony;

25 (E) promoting prostitution in the first degree under
26 AS 11.66.110, promoting gambling in the first degree under
27 AS 11.66.210; and possession of gambling records in the first
28 degree under AS 11.66.230;

29 (F) felony conduct that is defined as "racketeering

1 activity" under 18 U.S.C. 1961(1);

2 (3) "property" means a thing of value, including real or
3 personal property, claims against or interests in business or proper-
4 ty, contractual rights, securities, income, profits, an interest in an
5 enterprise, or other business or financial interest;

6 (4) "racketeering" means a pattern of illegal activity that
7 involves two or more instances of illegal activity.

8 (b) In this section, a "pattern" of illegal activity means that
9 the instances of illegal activity had the same or similar purposes,
10 results, victims, participants, or methods of commission, or were
11 interrelated by distinguishing characteristics.

12 * Sec. 3. AS 09.50 is amended by adding new sections to read:

13 ARTICLE 7. FORFEITURE.

14 Sec. 09.50.400. PROCEDURES APPLICABLE IN FORFEITURE PROCEEDINGS.
15 The state is authorized to initiate a proceeding to forfeit property
16 if the property is made subject to forfeiture by state law. Unless
17 otherwise specifically provided in a state law authorizing forfeiture,
18 the procedures applicable to the forfeiture of property are specified
19 in AS 09.50.400 - 09.50.480.

20 Sec. 09.50.410. SEIZURE AND CUSTODY OF PROPERTY. (a) Property
21 may be seized by a peace officer under an order issued by a court upon
22 a showing of probable cause that the property is subject to forfei-
23 ture. The property may be seized without a court order if

24 (1) constitutionally permissible or otherwise authorized by
25 law;

26 (2) the property has been the subject of a judgment in
27 favor of the state in a forfeiture proceeding; or

28 (3) there is probable cause to believe that the property is
29 subject to forfeiture and is easily movable; property seized under

1 this paragraph may not be held for more than 48 hours without a court
2 order, which may be obtained in an ex parte proceeding, based on
3 probable cause that the property is subject to forfeiture.

4 (b) Property seized under (a) of this section must be held in
5 the custody of the commissioner of public safety or a municipal law
6 enforcement agency authorized by the commissioner to retain custody,
7 subject only to the orders and decrees of the court. If property is
8 seized under this section, the commissioner of public safety or an
9 authorized municipal law enforcement agency may

10 (1) place the property under seal;

11 (2) remove the property to a place designated by the court;

12 or

13 (3) take custody of the property and remove it to an appro-
14 priate location for disposition in accordance with law.

15 (c) Within 10 days after a seizure under this section, the
16 commissioner of public safety or authorized municipal law enforcement
17 agency shall make an inventory of property seized, including con-
18 trolled substances, and shall estimate the value of the items seized
19 other than controlled substances. In this section, "controlled sub-
20 stance" includes "imitation controlled substance" as defined in
21 AS 11.73.099.

22 Sec. 09.50.420. NOTICE OF SEIZURE AND FORFEITURE ACTION; AN-
23 SWERS. (a) Within 30 days after a seizure under AS 09.50.410, the
24 commissioner of public safety shall, in a manner authorized for ser-
25 vice of process under rules of civil procedure, give notice of the
26 seizure to any person known to have an interest in the property if it
27 has an estimated value of \$500 or more, or whose interest in the
28 property is ascertainable from official registration numbers, li-
29 censes, or other state, federal, or municipal numbers on the property.

1 The notice required by this subsection need not be given if the state
2 has filed a motion to forfeit or a complaint under AS 09.50.430(a)
3 within 30 days after seizure of the property.

4 (b) Within 30 days after the filing of a civil in rem action or
5 a motion to forfeit in a civil or criminal action, the commissioner of
6 public safety shall,

7 (1) in a manner authorized for service of process under
8 rules of civil procedure, provide a copy of the complaint or motion to
9 any person known to have an interest in the property, other than the
10 defendant, when a motion for forfeiture has been filed in a criminal
11 proceeding; and

12 (2) begin to publish notice of the action to forfeit prop-
13 erty with an estimated value of \$500 or more in a newspaper of general
14 circulation in the judicial district where the property was seized, or
15 if the property has not been seized, the judicial district where the
16 forfeiture action was filed; if no newspaper is published in that
17 judicial district, the notice must be published in a newspaper pub-
18 lished in the state and distributed in that judicial district; the
19 notice must be published once each week during four consecutive calen-
20 dar weeks.

21 (c) Upon service of process or publication under (b) of this
22 section, a person claiming an interest in the property, or a defendant
23 in a criminal proceeding who has been served with a motion to forfeit,
24 shall file an answer within the time permitted for answering civil
25 complaints under applicable rules of civil procedure. The answer must
26 set out the reasons why the property is not subject to forfeiture or
27 why the claimant is entitled to remission under AS 09.50.470. The
28 answer must include the nature of the claimant's interest in the
29 property, the date it was acquired, the consideration paid, and the

1 circumstances under which it was acquired. If an answer is not filed
2 within the required time period, the property must be forfeited to the
3 state without further proceedings or showings.

4 (d) The notice requirements of this section do not apply to
5 controlled substances under AS 11.71 or imitation controlled sub-
6 stances under AS 11.73.

7 Sec. 09.50.430. PROCEEDINGS RESULTING IN FORFEITURE; BURDEN OF
8 PROOF. (a) A forfeiture proceeding is initiated by the state by the
9 filing of a motion to forfeit in a criminal case or in a civil pro-
10 ceeding relating to the conduct making the property subject to forfei-
11 ture, or by the filing of a complaint in a separate in rem proceeding.

12 (b) Questions of fact or law in a forfeiture proceeding under
13 this section must be determined by the court sitting without a jury.
14 In a forfeiture proceeding the state must prove by a preponderance of
15 the evidence that the property is subject to forfeiture under the law
16 authorizing forfeiture. A forfeiture proceeding, including discovery,
17 may be held in abeyance until the conclusion of a pending criminal
18 action relating to the conduct making the property subject to forfei-
19 ture.

20 Sec. 09.50.440. DEFENSES EXEMPTED. It is not a defense to a
21 proceeding to forfeit property under AS 09.50.430 that a criminal
22 proceeding has resulted in a conviction of a lesser included offense
23 or an acquittal.

24 Sec. 09.50.450. PETITION FOR RELEASE OF SEIZED PROPERTY. (a) A
25 claimant may at any time petition the court for release of property
26 seized under AS 09.50.410 if the claimant

27 (1) has filed a timely answer under AS 09.50.420(c); or
28 (2) before the initiation of a forfeiture action, files a
29 notice of claim setting out the nature of the claimant's interest in

1 the property, the date it was acquired, the consideration paid, and
2 the circumstances under which it was acquired.

3 (b) The court may release property that is not likely to be used
4 as evidence by the state or a defendant in a criminal proceeding, or
5 by any party in a civil proceeding, if

6 (1) the claimant gives adequate assurance that the property
7 will remain subject to the court's jurisdiction;

8 (2) the court finds that the release is in the best inter-
9 ests of the state; and

10 (3) the claimant provides a bond or other valid and equiva-
11 lent security equal to twice the estimated value of the property.

12 Sec. 09.50.460. PETITION FOR DISPOSITION OF SEIZED PROPERTY.

13 (a) The state may petition the court for disposition of seized prop-
14 erty before the termination of court proceedings. A claimant may also
15 seek a petition for disposition before the termination of court pro-
16 ceedings if the claimant

17 (1) has filed a timely answer under AS 09.50.420(c); or

18 (2) before the initiation of a forfeiture action, files a
19 notice of claim setting out the nature of the claimant's interest in
20 the property, the date it was acquired, the consideration paid, and
21 the circumstances under which it was acquired.

22 (b) The court may grant a petition for disposition if the prop-
23 erty is not likely to be used as evidence by the state or a defendant
24 in a criminal proceeding, or by a party in a civil proceeding, and the
25 court finds that the disposition is in the best interests of the state
26 and the preservation and maintenance of the value of the property
27 seized. Proceeds from the disposition plus interest to the date of
28 termination of the court proceedings become the subject of the forfei-
29 ture action.

1 Sec. 09.50.470. FORFEITURE AND REMISSION. (a) Once the state
2 has established that property is subject to forfeiture under the law
3 authorizing forfeiture, the property must be forfeited to the state,
4 except that a claimant who has filed an answer under AS 09.50.420(c)
5 may prove by a preponderance of the evidence that the claimant is
6 entitled to remission because the claimant

7 (1) has a valid interest in the property, acquired in good
8 faith;

9 (2) did not participate in the conduct that resulted in the
10 property being subject to forfeiture; and

11 (3) did not know or have reasonable cause to believe that
12 the property had been or would be used or derived in a manner making
13 the property subject to forfeiture.

14 (b) Upon a showing that a claimant is entitled to remission
15 under (a) of this section, the court shall order that

16 (1) if the claimant is entitled to the property, it must be
17 delivered to the claimant immediately;

18 (2) if the claimant is entitled to some value less than the
19 total value of the property, the claimant may choose to receive either
20 the value of the interest or, upon payment of the difference in value,
21 the entire property.

22 (c) The court may, as part of a sentence, or as a condition of a
23 probation or suspended imposition of sentence, order the payment of
24 reasonable maintenance, storage, disposal, publication, attorney fees,
25 or other costs associated with the forfeiture or remission of prop-
26 erty.

27 Sec. 09.50.480. STATE DISPOSAL OF FORFEITED PROPERTY. Property
28 forfeited under this chapter, other than controlled substances, must
29 be disposed of by the commissioner of administration in accordance

1 with applicable law. Controlled substances and imitation controlled
2 substances must be disposed of under AS 17.30.126. The commissioner
3 of administration may, consistent with other applicable law,

4 (1) destroy property harmful to the public;

5 (2) sell the property and use the proceeds for payment of
6 all proper expenses of the proceedings for forfeiture and sale, in-
7 cluding expenses of seizure, custody, and court costs;

8 (3) take custody of the property and authorize its use in
9 the enforcement of the law or transfer it to another agency of the
10 state or a political subdivision of the state for a use in furtherance
11 of the administration of justice;

12 (4) take custody of the property and remove it for disposi-
13 tion in accordance with law;

14 (5) forward it to the United States Department of Justice
15 for disposition; or

16 (6) transfer ownership of an aircraft to the Alaska Wing,
17 Civil Air Patrol.

18 * Sec. 4. AS 11.41.520 is amended by adding a new subsection to read:

19 (e) As used in this section, "obtains the property of another"
20 includes the collection of a debt that was undertaken with the express
21 or implied understanding between the debtor and the creditor that
22 delay in making repayment, or failure to make repayment, could result
23 in commission of any of the acts described in (a)(1) - (7) of this
24 section.

25 * Sec. 5. AS 11.66.270 is amended to read:

26 Sec. 11.66.270. FORFEITURE. If used in violation of AS 11.66.-
27 200 - 11.66.280, the following property is subject to forfeiture under
28 AS 09.50 [SHALL BE FORFEITED]:

29 (1) a gambling device or gambling record;

1 (2) money, not found on the person, used as a bet or stake;
2 (3) money used as a bet or stake which is found on the
3 person of one who conducts, finances, manages, supervises, directs, or
4 owns all or part of an unlawful gambling enterprise.

5 * Sec. 6. AS 11.73.060(a) is amended to read:

6 (a) Property used during or in aid of a violation of this chap-
7 ter may be forfeited to the state to the extent permitted under and in
8 accordance with the provisions of AS 09.50 and AS 17.30.110 - 17.30.-
9 126.

10 * Sec. 7. AS 12.55.035(b) is amended to read:

11 (b) Upon conviction of an offense, a defendant who is not an
12 organization may be sentenced to pay, unless otherwise specified in
13 the provision of law defining the offense, a fine of no more than

14 (1) \$75,000 for an unclassified felony [MURDER IN THE FIRST
15 OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR
16 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE];

17 (2) \$50,000 for a class A, B, or C felony;

18 (3) \$5,000 for a class A misdemeanor;

19 (4) \$1,000 for a class B misdemeanor;

20 (5) \$300 for a violation.

21 * Sec. 8. AS 12.55.125(i) is amended to read:

22 (i) A defendant convicted of illegal control of an enterprise in
23 the first degree, sexual assault in the first degree or sexual abuse
24 of a minor in the first degree may be sentenced to a definite term of
25 imprisonment of not more than 30 years, and shall be sentenced to the
26 following presumptive terms, subject to adjustment as provided in
27 AS 12.55.155 - 12.55.175:

28 (1) if the offense is a first felony conviction and does
29 not involve circumstances described in (2) of this subsection, eight

1 years;

2 (2) if the offense is a first felony conviction, and the
3 defendant possessed a firearm, used a dangerous instrument, or caused
4 serious physical injury during the commission of the offense, 10
5 years;

6 (3) if the offense is a second felony conviction, 15 years;

7 (4) if the offense is a third felony conviction, 25 years.

8 * Sec. 9. AS 17.30.110 is repealed and reenacted to read:

9 Sec. 17.30.110. ITEMS SUBJECT TO FORFEITURE. (a) The following
10 property is subject to forfeiture under AS 09.50 and AS 17.30.126:

11 (1) a controlled substance that has been manufactured,
12 distributed, dispensed, acquired, or possessed in violation of this
13 chapter or AS 11.71;

14 (2) raw materials, products, and equipment that are used or
15 intended for use in manufacturing, distributing, compounding, process-
16 ing, delivering, importing, or exporting a controlled substance in
17 violation of this chapter or AS 11.71;

18 (3) property that is used or intended for use as a con-
19 tainer for property described in (1) or (2) of this section;

20 (4) a conveyance, including but not limited to aircraft,
21 vehicles, or vessels, that has been used or is intended for use in
22 transporting or in any manner in facilitating the transportation,
23 sale, receipt, possession, or concealment of property described in (1)
24 or (2) of this section in violation of a felony offense under this
25 chapter or AS 11.71;

26 (5) books, records, and research products and materials,
27 including formulas, microfilm, tapes, and data, that are used in
28 violation of this chapter or AS 11.71;

29 (6) money, securities, negotiable instruments, or other

1 property

2 (A) furnished by a person in exchange for a controlled
3 substance in violation of this chapter or AS 11.71;

4 (B) used to facilitate a violation of this chapter or
5 AS 11.71; or

6 (C) that constitute proceeds derived from a violation
7 of this chapter or AS 11.71; and

8 (7) a firearm carried during, or used in furtherance of a
9 violation of this chapter or AS 11.71.

10 (b) In this section, "violation of this chapter or AS 11.71"
11 includes an attempt or solicitation under AS 11.31 to violate this
12 chapter or AS 11.71.

13 * Sec. 10. AS 17.30.126 is amended by adding a new subsection to read:

14 (c) As used in this section, "controlled substance" includes
15 "imitation controlled substance" as defined in AS 11.73.099.

16 * Sec. 11. AS 17.30.112 - 17.30.124 are repealed.

17 * Sec. 12. This Act takes effect January 1, 1987.