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5-0196A

1 IN THE SENATE

BY RODEY, SZYMANSKI,  
KERTTULA AND FAIKS

2 SENATE BILL NO. 28

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to illegally controlled enterprises,  
7 the forfeiture of property that is used in violation  
8 of state law, and extortion; and providing for an  
9 effective 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. CRIMES INVOLVING ILLEGALLY  
22 CONTROLLED ENTERPRISES.

23 Sec. 11.59.010. ILLEGAL CONTROL OF AN ENTERPRISE IN THE FIRST  
24 DEGREE. (a) A person commits the crime of illegal control of an  
25 enterprise in the first degree if the person violates AS 11.59.020,  
26 and one of the instances of illegal activity used to establish racket-  
27 eering is an unclassified or class A felony in the state or a crime in  
28 the state or in another jurisdiction having elements substantially  
29 similar to a current class A felony or unclassified felony in the

1 state.

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

4 Sec. 11.59.020. ILLEGAL CONTROL OF AN ENTERPRISE IN THE SECOND  
5 DEGREE. (a) A person commits the crime of illegal control of an  
6 enterprise in the second degree if the person

7 (1) acquires or maintains, directly or indirectly, an  
8 interest in or control of an enterprise through racketeering;

9 (2) participates in or conducts, directly or indirectly,  
10 the affairs of an enterprise through racketeering; or

11 (3) uses or invests property derived, directly or indirect-  
12 ly, from racketeering, or the proceeds of that property, to acquire or  
13 maintain an interest in or control of an enterprise or to participate  
14 in or conduct the affairs of an enterprise.

15 (b) Illegal control of an enterprise in the second degree or an  
16 attempt or solicitation of illegal control of an enterprise in the  
17 second degree is a class A felony.

18 Sec. 11.59.030. PROOF OF RACKETEERING. (a) The instances of  
19 illegal activity used to establish racketeering must include illegal  
20 activity that

21 (1) is in violation of state law;

22 (2) occurred after the effective date of this Act; and

23 (3) was committed no more than three years before or after  
24 the alleged acquisition or maintenance of an interest in or control of  
25 the enterprise, or the alleged participation in or conducting of the  
26 affairs of the enterprise as described in AS 11.59.020.

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

29 (c) Past illegal activity may be used to establish racketeering

1 if less than five years have elapsed between the date of the most  
2 recent instance of illegal activity and the immediately preceding  
3 instance of illegal activity.

4 (d) Illegal activity that is used to establish racketeering may  
5 be proved by

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

7 (2) proof beyond a reasonable doubt in a criminal prose-  
8 cution under AS 11.59.010 or 11.59.020; or

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

11 (e) For the purpose of calculating the three-year period  
12 specified in (a)(3) of this section and the five-year period specified  
13 in (c) of this section, a period of imprisonment, probation, parole,  
14 conditional executive clemency, suspended imposition of sentence,  
15 formal deferred prosecution or formal pretrial diversion is excluded.

16 Sec. 11.59.040. CHARGING UNDERLYING ACT. In a criminal prose-  
17 cution under AS 11.59.010 or 11.59.020, a violation of a criminal law  
18 that is used to prove racketeering may be charged as a separate count  
19 in the same indictment or information as the violation of AS 11.59.010  
20 or 11.59.020.

21 ARTICLE 2. CIVIL REMEDIES.

22 Sec. 11.59.070. EFFECT OF CONVICTION ON OTHER PROCEEDINGS. A  
23 criminal conviction for a violation of AS 11.59.010 or 11.59.020  
24 estops the defendant from denying the essential allegations of the  
25 crime in a subsequent proceeding brought by a party under this chap-  
26 ter, a forfeiture proceeding under AS 09.50, or under another pro-  
27 vision of law.

28 Sec. 11.59.080. CIVIL ACTION FOR TREBLE DAMAGES. A person,  
29 including the state or other governmental agency, that is injured in

1 business or property by a violation of AS 11.59.010 or 11.59.020 may  
2 bring an action in the superior court for three times the amount of  
3 damages sustained.

4 Sec. 11.59.090. PROPERTY SUBJECT TO FORFEITURE. Property, or  
5 the proceeds of property, is subject to forfeiture to the state under  
6 AS 09.50 if

7 (1) acquired or maintained in violation of, or in the  
8 course of violating, AS 11.59.010 or 11.59.020;

9 (2) used or invested in violation of, or in the course of  
10 violating, AS 11.59.010 or 11.59.020; or

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

12 Sec. 11.59.100. INJUNCTIVE RELIEF. (a) In addition to any  
13 other action authorized by law, the attorney general may bring a  
14 separate ex parte action in the superior court to enjoin a violation  
15 of AS 11.59.010 or 11.59.020. The superior court may prevent or  
16 restrain violations of AS 11.59.010 or 11.59.020 by issuing appropri-  
17 ate temporary or permanent orders that may include divestiture of an  
18 interest in an enterprise, performance bonds, reasonable restrictions  
19 on future activities or investments, the attachment and freezing of  
20 assets, prohibitions against engaging in the same type of activities  
21 as the enterprise engaged in, and dissolution or reorganization of an  
22 enterprise, making appropriate provision for the rights of innocent  
23 persons.

24 (b) At any time after a civil or criminal proceeding arising out  
25 of a violation of AS 11.59.010 or 11.59.020 has been instituted, the  
26 superior court may issue appropriate orders and injunctive relief that  
27 may include the remedies listed in (a) of this section, or another  
28 order to prevent disposal or diminution in value of property subject  
29 to forfeiture under AS 11.59.090(1) or (2) or subject to a claim for

1 damages under AS 11.59.080.

2 (c) Upon a criminal conviction or a civil judgment, including an  
3 order of forfeiture, arising out of a violation of AS 11.59.010 or  
4 11.59.020, the superior court may issue appropriate orders that may  
5 include the remedies listed in (a) of this section.

6 Sec. 11.59.110. CIVIL INVESTIGATIVE DEMAND. (a) Whenever there  
7 is reason to believe that a person or enterprise may be in possession,  
8 custody, or control of a document or other material that may be rele-  
9 vant to an investigation relating to a violation of AS 11.59.010 or  
10 11.59.020, the attorney general may, before the institution of a civil  
11 or criminal proceeding, issue a written investigative demand requiring  
12 the production of the material for examination.

13 (b) A demand for material must

14 (1) state the nature of the conduct that is under inves-  
15 tigation;

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

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

25 (c) Service of a demand for materials under this section may be  
26 made by

27 (1) delivering a copy to a partner, executive officer,  
28 managing agent, or general agent of an enterprise, or to an agent  
29 authorized to receive service of process on behalf of an enterprise,

1 or to an individual person;

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

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

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

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

22 (f) Within 90 days after the production of an original document  
23 or other material, or upon the completion of the investigation for  
24 which the original material was produced under this section, or upon  
25 completion of a case or proceeding arising from an investigation,  
26 whichever is sooner, the attorney general shall return all original  
27 material that has not passed into the control of a court or grand  
28 jury. For good cause, the superior court may grant the attorney  
29 general an extension of time to return the material.

1           Sec. 11.59.120. ATTEMPT OR SOLICITATION TO VIOLATE AS 11.59.010  
2 or 11.59.020. In AS 11.59.070 - 11.59.120, the term "violation of  
3 AS 11.59.010 or 11.59.020", or a similar phrase, includes an attempt  
4 or solicitation under AS 11.31 to violate AS 11.59.010 or 11.59.020.

5                           ARTICLE 3. GENERAL PROVISIONS.

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

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

11                   (2) "illegal activity" means

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

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

15                           (C) a felony against public administration under  
16 AS 11.56, a felony against public order under AS 11.61, a felony  
17 involving alcoholic beverages under AS 04 or a felony involving  
18 securities or takeover bids under AS 45.55 or 45.57;

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

21                           (E) promoting prostitution in the first degree under  
22 AS 11.66.110, promoting gambling in the first degree under  
23 AS 11.66.210; and possession of gambling records in the first  
24 degree under AS 11.66.230;

25                           (F) felony conduct that is defined as "racketeering  
26 activity" under 18 U.S.C. 1961(1);

27                   (3) "property" means a thing of value, including real or  
28 personal property, claims against or interests in business or proper-  
29 ty, contractual rights, securities, income, profits, an interest in an

1 enterprise, or other business or financial interest;

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

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

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

9 ARTICLE 7. FORFEITURE.

10 Sec. 09.50.400. PROCEDURES APPLICABLE IN FORFEITURE PROCEEDINGS.

11 The state is authorized to initiate a proceeding to forfeit property  
12 if the property is made subject to forfeiture by state law. Unless  
13 otherwise specifically provided in a state law authorizing forfeiture,  
14 the procedures applicable to the forfeiture of property are limited to  
15 those specified in AS 09.50.400 - 09.50.480.

16 Sec. 09.50.410. SEIZURE AND CUSTODY OF PROPERTY. (a) Property  
17 may be seized by a peace officer under an order issued by a court upon  
18 a showing of probable cause that the property is subject to forfei-  
19 ture. The property may be seized without a court order if constitu-  
20 tionally permissible and

21 (1) otherwise authorized by law;

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

24 (3) there is probable cause to believe that the property is  
25 subject to forfeiture and is easily movable; property seized under  
26 this paragraph may not be held for more than 48 hours without a court  
27 order, which may be obtained in an ex parte proceeding, based on  
28 probable cause that the property is subject to forfeiture.

29 (b) Property seized under (a) of this section must be held in

1 the custody of the commissioner of public safety or a municipal law  
2 enforcement agency authorized by the commissioner to retain custody,  
3 subject only to the orders and decrees of the court. If property is  
4 seized under this section, the commissioner of public safety or an  
5 authorized municipal law enforcement agency may

6 (1) place the property under seal;

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

8 or

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

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

18 Sec. 09.50.420. NOTICE OF SEIZURE AND FORFEITURE ACTION; AN-  
19 SWERS. (a) Within 30 days after a seizure under AS 09.50.410, the  
20 commissioner of public safety shall, in a manner authorized for ser-  
21 vice of process under the Alaska Rules of Civil Procedure, give notice  
22 of the seizure to any person known to have an interest in the property  
23 if it has an estimated value of \$500 or more, or whose interest in the  
24 property is ascertainable from official registration numbers, li-  
25 censes, or other state, federal, or municipal numbers on the property.  
26 The notice required by this subsection need not be given if the state  
27 has filed a motion to forfeit or a complaint under AS 09.50.430(a)  
28 within 30 days after seizure of the property.

29 (b) Within 30 days after the filing of a civil in rem action or

1 a motion to forfeit in a civil or criminal action, the commissioner of  
2 public safety shall,

3 (1) in a manner authorized for service of process under the  
4 Alaska Rules of Civil Procedure, provide a copy of the complaint or  
5 motion to any person known to have an interest in the property, other  
6 than the defendant, when a motion for forfeiture has been filed in a  
7 criminal proceeding; and

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

17 (c) Upon service of process or publication under (b) of this  
18 section, a person claiming an interest in the property, or a defendant  
19 in a criminal proceeding who has been served with a motion to forfeit,  
20 shall file an answer within the time permitted for answering civil  
21 complaints under the Alaska Rules of Civil Procedure. The answer must  
22 set out the reasons why the property is not subject to forfeiture or  
23 why the claimant is entitled to remission under AS 09.50.470. The  
24 answer must include the nature of the claimant's interest in the  
25 property, the date it was acquired, the consideration paid, and the  
26 circumstances under which it was acquired. If an answer is not filed  
27 within the required time period, the property must be forfeited to the  
28 state without further proceedings or showings.

29 (d) The notice requirements of this section do not apply to

1 controlled substances under AS 11.71 or imitation controlled sub-  
2 stances under AS 11.73.

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

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

16 Sec. 09.50.440. DEFENSES EXEMPTED. It is not a defense to a  
17 proceeding to forfeit property under AS 09.50.430 that a criminal  
18 proceeding has resulted in a conviction of a lesser included offense  
19 or an acquittal.

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

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

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

28 (b) The court may release property that is not likely to be used  
29 as evidence by the state or a defendant in a criminal proceeding, or

1 by any party in a civil proceeding, if

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

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

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

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

9 (a) The state may petition the court for disposition of seized prop-  
10 erty before the termination of court proceedings. A claimant may also  
11 seek a petition for disposition before the termination of court pro-  
12 ceedings if the claimant

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

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

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

26 Sec. 09.50.470. FORFEITURE AND REMISSION. (a) Once the state  
27 has established that property is subject to forfeiture under the law  
28 authorizing forfeiture, the property must be forfeited to the state,  
29 except that a claimant who has filed an answer under AS 09.50.420(c)

1 is entitled to remission if the claimant can prove by a preponderance  
2 of the evidence that the claimant

3 (1) has a valid interest in the property, acquired in good  
4 faith;

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

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

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

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

14 (2) if the claimant is entitled to some value less than the  
15 total value of the property, the claimant may choose to receive either  
16 the value of the interest or, upon payment of the difference in value,  
17 the entire property.

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

23 Sec. 09.50.480. STATE DISPOSAL OF FORFEITED PROPERTY. Property  
24 forfeited under this chapter, other than controlled substances, must  
25 be disposed of by the commissioner of administration in accordance  
26 with applicable law. Controlled substances and imitation controlled  
27 substances must be disposed of under AS 17.30.126. The commissioner  
28 of administration may, consistent with other applicable law,

29 (1) destroy property harmful to the public;

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

4                   (3) take custody of the property and authorize its use in  
5 the enforcement of the law or transfer it to another agency of the  
6 state or a political subdivision of the state for a use in furtherance  
7 of the administration of justice;

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

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

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

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

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

21 \* Sec. 5. AS 11.66.270 is amended to read:

22                   Sec. 11.66.270. FORFEITURE. If used in violation of AS 11.66.-  
23 200 - 11.66.280, the following property is subject to forfeiture under  
24 AS 09.50 [SHALL BE FORFEITED]:

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

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

2 (a) Property used during or in aid of a violation of this chap-  
3 ter may be forfeited to the state to the extent permitted under and in  
4 accordance with the provisions of AS 09.50 and AS 17.30.110 - 17.30.-  
5 126.

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

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

10 (1) \$75,000 for an unclassified felony [MURDER IN THE FIRST  
11 OR SECOND DEGREE, SEXUAL ASSAULT IN THE FIRST DEGREE, KIDNAPPING, OR  
12 MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE IN THE FIRST DEGREE];

13 (2) \$50,000 for a class A, B, or C felony;

14 (3) \$5,000 for a class A misdemeanor;

15 (4) \$1,000 for a class B misdemeanor;

16 (5) \$300 for a violation.

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

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

24 (1) if the offense is a first felony conviction and does  
25 not involve circumstances described in (2) of this subsection, eight  
26 years;

27 (2) if the offense is a first felony conviction, and the  
28 defendant possessed a firearm, used a dangerous instrument, or caused  
29 serious physical injury during the commission of the offense, 10

1 years;

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

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

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

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

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

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

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

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

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

25 (6) money, securities, negotiable instruments, or other  
26 property

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

29 (B) used to facilitate a violation of this chapter or

1 AS 11.71; or

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

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

6 (b) In this section, "violation of this chapter or AS 11.71"  
7 includes an attempt or solicitation under AS 11.31 to violate this  
8 chapter or AS 11.71.

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

10 (c) In this section, "controlled substance" includes "imitation  
11 controlled substance" as defined in AS 11.73.099.

12 \* Sec. 11. AS 17.30.112 - 17.30.124 are repealed.

13 \* Sec. 12. This Act takes effect January 1, 1988.