

Offered: 4/12/88
Referred: Rules

5-1354N

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1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 462 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances, imita-
8 tion controlled substances, and alcoholic beverage
9 control laws."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 04.16.220(a) is amended to read:
12 (a) The following are subject to forfeiture to the state or a
13 municipality:
14 (1) alcoholic beverages manufactured, sold, offered for
15 sale or possessed for sale, bartered, or exchanged for goods and
16 services in this state in violation of AS 04.11.010; alcoholic bever-
17 ages possessed, stocked, warehoused, or otherwise stored in violation
18 of AS 04.21.060; alcoholic beverages sold or offered for sale in an
19 area where the results of a local option election have, under AS 04.-
20 11.490 - 04.11.500, prohibited the possession of alcoholic beverages
21 or prohibited the board from issuing, renewing, or transferring one or
22 more licenses or permits under this title in the area; alcoholic
23 beverages transported into the state and sold to persons not licensed
24 under this chapter in violation of AS 04.16.170(b);
25 (2) materials and equipment used in the manufacture, sale,
26 offering for sale, possession for sale, barter, or exchange of alco-
27 holic beverages for goods and services in this state in violation of
28 AS 04.11.010; materials and equipment used in the stocking, warehous-
29 ing, or storage of alcoholic beverages in violation of AS 04.21.060;

1 materials and equipment used in the sale or offering for sale of an
2 alcoholic beverage in an area where the results of a local option
3 election have, under AS 04.11.490 - 04.11.500, prohibited the board
4 from issuing, renewing, or transferring one or more licenses or per-
5 mits under this title in the area;

6 (3) aircraft, vehicles, or vessels used to transport, or
7 facilitate the transportation of

8 (A) alcoholic beverages manufactured, sold, offered
9 for sale or possessed for sale, bartered, or exchanged for goods
10 and services in this state in violation of AS 04.11.010;

11 (B) property stocked, warehoused, or otherwise stored
12 in violation of AS 04.21.060;

13 (C) alcoholic beverages imported into a municipality
14 or established village in violation of AS 04.11.496;

15 (4) alcoholic beverages found on licensed premises that do
16 not bear federal excise stamps if excise stamps are required under
17 federal law;

18 (5) alcoholic beverages, materials, or equipment used in
19 violation of AS 04.16.175;

20 (6) real property, including interests in real property and
21 appurtenances and improvements to real property, that is used or
22 intended for use to manufacture, store, distribute, sell, or offer for
23 sale alcoholic beverages in violation of AS 04.11.010 or an ordinance
24 adopted under AS 04.11.490 - 04.11.500;

25 (7) property, including money, securities, or negotiable
26 instruments, that is

27 (A) furnished by a person in exchange for alcoholic
28 beverages manufactured, stored, distributed, sold, or offered for
29 sale in violation of AS 04.11.010 or an ordinance adopted under

1 AS 04.11.490 - 04.11.500;

2 (B) used in, intended for use in, or used to facili-
3 tate a violation of AS 04.11.010 or an ordinance adopted under
4 AS 04.11.490 - 04.11.500; or

5 (C) proceeds derived directly or indirectly from a
6 violation of AS 04.11.010 or an ordinance adopted under AS 04.-
7 11.490 - 04.11.500;

8 (8) property acquired, maintained, produced by, or derived
9 from proceeds obtained directly or indirectly from a violation of
10 AS 04.11.010 or an ordinance adopted under AS 04.11.490 - 04.11.500.

11 * Sec. 2. AS 04.16.220(b) is amended to read:

12 (b) Property subject to forfeiture under this section may be
13 actually or constructively seized under an order issued by the su-
14 perior court upon a showing of probable cause that the property is
15 subject to forfeiture under this section. Constructive seizure is
16 effected upon posting a signed notice of seizure on the item to be
17 forfeited, stating the violation and the date and place of seizure.
18 Seizure without a court order may be made if

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

20 (2) the property subject to seizure is the subject of a
21 prior judgment in favor of the state or a municipality; or

22 (3) there is probable cause to believe that the property is
23 subject to forfeiture under (a) of this section; except for alcoholic
24 beverages possessed on violation of AS 04.11.498 or an ordinance
25 adopted under AS 04.11.498, property seized under this paragraph may
26 not be held over 48 hours or until an order of forfeiture is issued by
27 the court, whichever is earlier.

28 * Sec. 3. AS 04.16 is amended by adding new sections to read:

29 Sec. 04.16.225. NOTICE OF IMPENDING FORFEITURE. Within 20 days

1 after a seizure under AS 04.16.220 - 04.16.260 the commissioner of
2 public safety or the chief of police, whoever is in custody of the
3 seized property, shall make reasonable efforts to ascertain the iden-
4 tity and location of a person holding an interest, or an assignee of a
5 person holding an interest, in the property seized, including a right
6 to possession, lien, mortgage, or conditional sales contract. The
7 commissioner of public safety or chief of police shall notify the
8 person ascertained to have an interest in property seized of the
9 impending forfeiture. Before forfeiture, the commissioner of public
10 safety or chief of police shall publish, once a week for three consec-
11 utive calendar weeks, a notice of the impending forfeiture in a news-
12 paper of general circulation in the judicial district in which the
13 seizure was made, or if a newspaper is not published in that judicial
14 district, in a newspaper published in the state and distributed in
15 that judicial district.

16 Sec. 04.16.230. FORFEITURE PROCEEDINGS. Property subject to
17 forfeiture under AS 04.16.220 may be forfeited to the state or a
18 municipality, as appropriate, upon

19 (1) the order of the commissioner of public safety or a
20 chief of police in a summary administrative forfeiture proceeding
21 under AS 04.16.235;

22 (2) upon conviction of a person under AS 04.11.010 or
23 AS 04.21.060 or upon conviction for violating an ordinance adopted
24 under AS 04.11.490 - 04.11.500; or

25 (3) upon judgment by the superior court in a proceeding in
26 rem that the property was used in a manner subjecting it to forfeiture
27 under AS 04.16.220 - 04.16.260.

28 Sec. 04.16.235. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

29 (a) If the estimated value of seized property is \$100,000 or less or

1 if the seized property is an aircraft, vehicle, or vessel, the offi-
2 cial who has custody of seized property may commence a summary admin-
3 istrative forfeiture proceeding by giving actual notice of the pro-
4 ceeding to persons who have a known or ascertainable interest in the
5 property and by publishing a notice of the proceeding in a newspaper
6 as required under AS 04.16.225. The notice must

7 (1) describe the property seized, including motor and
8 serial numbers, if any;

9 (2) state the time, place, and cause of seizure; and

10 (3) state that a person claiming an interest in the prop-
11 erty shall, within 20 days from the date of the first publication of
12 the notice, file with the official a claim to the property and a bond
13 in the proper amount.

14 (b) A person claiming property subject to a proceeding under
15 this section shall submit a claim and a bond to the official within 20
16 days after the date of first publication of the notice required under
17 this section.

18 (c) The bond with satisfactory sureties must be in the amount of
19 \$2,500 or 10 percent of the appraised value of the property, whichever
20 is lower, but not less than \$500. The bond must be in cash, certified
21 check, or satisfactory sureties. The bond must be rendered to the
22 state or municipality, as appropriate, with sureties approved by the
23 official and conditioned that in the event of judicial forfeiture of
24 the property the obligor shall pay from the bond all costs and ex-
25 penses of the judicial forfeiture proceeding.

26 (d) When the claim and bond are received, the official shall
27 determine if the claim and bond are in proper form and the sureties
28 are satisfactory. If the claim and bond are satisfactory, the offi-
29 cial shall terminate the summary administrative forfeiture proceeding

1 and commence a civil proceeding in rem. Notwithstanding AS 04.16.225,
2 the official shall commence the civil proceeding in rem within 20 days
3 after the timely and satisfactory claim and bond are filed. If the
4 claim and bond are not satisfactory when first received, a reasonable
5 time for correction of the claim and bond may be allowed; if satisfac-
6 tory corrections are not made to the claim and bond within a reason-
7 able time, the official may proceed as though the claim and bond had
8 not been tendered.

9 (e) The filing of a timely and satisfactory claim and bond
10 terminates the summary administrative forfeiture proceeding, but does
11 not entitle the claimant to possession of the property.

12 (f) If a timely and satisfactory claim and bond are not filed
13 within the time required under this section, the official shall de-
14 clare the property forfeited. The official shall execute a declara-
15 tion of forfeiture.

16 (g) In this section

17 (1) "commissioner of public safety" includes an employee of
18 the Department of Public Safety designated by the commissioner to
19 conduct summary administrative forfeiture proceedings;

20 (2) "official" means the commissioner of public safety or
21 chief of police who has custody of seized property.

22 Sec. 04.16.240. REMISSION OF THE FORFEITURE. (a) The owner of
23 property subject to forfeiture under AS 04.16.220 is entitled to
24 relief from the forfeiture in the nature of remission of the forfei-
25 ture if, in an action under AS 04.16.230(2) or (3), the owner shows
26 that the owner was not a party to the violation and did not have
27 actual knowledge that the property was used or was to be used in
28 violation of the law or ordinance.

29 (b) A person other than the owner holding, or the assignee of, a

1 lien, mortgage, conditional sales contract on, or the right to pos-
2 session to property subject to forfeiture under AS 04.16.220 is enti-
3 tled to relief from the forfeiture in the nature of remission of the
4 forfeiture if, in an action under AS 04.16.230(2) or (3), the person
5 shows that the person was not a party to the violation subjecting the
6 property to forfeiture and did not have actual knowledge that the
7 property was used or was to be used in violation of the law or ordi-
8 nance.

9 Sec. 04.16.245. DEFENSES TO FORFEITURE. It is not a defense in
10 an in rem forfeiture proceeding brought under AS 04.16.230(3) that a
11 criminal proceeding is pending or has resulted in conviction or ac-
12 quittal of a person charged with violating AS 04.11.010, 04.11.496(b),
13 AS 04.21.060, or an ordinance adopted under AS 04.11.490 - 04.11.500.

14 Sec. 04.16.250. DISPOSITION OF PROPERTY UPON FORFEITURE. Alco-
15 holic beverages forfeited under AS 04.16.220 - 04.16.260 shall be
16 placed in the custody of a peace officer of the state and destroyed
17 not later than 30 days after forfeiture. All other property forfeited
18 to the state under AS 04.16.220 - 04.16.260 shall be placed in the
19 custody of the commissioner of public safety for disposition. The
20 commissioner shall destroy property forfeited to the state under
21 AS 04.16.220 - 04.16.260 that is harmful to the public. Other prop-
22 erty forfeited to the state shall be ordered sold; the commissioner
23 may use the proceeds, subject to appropriation by the legislature, for
24 payment of expenses of the proceedings for forfeiture and sale, in-
25 cluding expenses of seizure, custody, and court costs, if any. The
26 commissioner shall deposit the remainder of the proceeds in the
27 general fund.

28 Sec. 04.16.260. DEFINITIONS. In AS 04.16.220 - 04.16.260

29 (1) "chief of police" means the head of a law enforcement

1 agency of a municipality;

2 (2) "municipality" means a municipality that has adopted an
3 ordinance under AS 29.35.135 providing for summary administrative
4 forfeiture proceedings to be conducted by the municipality's chief of
5 police.

6 * Sec. 4. AS 11.73.060 is amended to read:

7 Sec. 11.73.060. FORFEITURES. (a) Property used during or in
8 aid of a violation of this chapter may be forfeited to the state or a
9 municipality to the extent permitted under AS 17.30.110 - 17.30.138
10 [AND IN ACCORDANCE WITH THE PROVISIONS OF AS 17.30.110 - 17.30.126].

11 (b) For purposes of this section the terms "controlled sub-
12 stance" and "this chapter", as used in AS 17.30.110 - 17.30.138
13 [AS 17.30.110 - 17.30.126], shall be construed as "imitation con-
14 trolled substance" and "AS 11.73" respectively.

15 * Sec. 5. AS 17.30.110 is amended to read:

16 Sec. 17.30.110. ITEMS SUBJECT TO FORFEITURE. The following may
17 be forfeited to the state or a municipality, except as provided in
18 AS 17.30.126:

19 (1) a controlled substance that [WHICH] has been manufact-
20 ured, distributed, dispensed, acquired, or possessed in violation of
21 this chapter or AS 11.71;

22 (2) property, including raw materials, products, and equip-
23 ment, that is [WHICH ARE] used or intended for use in manufacturing,
24 distributing, compounding, processing, delivering, importing, or
25 exporting a controlled substance that [WHICH] is a felony under this
26 chapter or AS 11.71;

27 (3) property that [WHICH] is used or intended for use as a
28 container for property described in (1) or (2) of this section;

29 (4) a conveyance, including but not limited to aircraft,

1 vehicles, or vessels, that [WHICH] has been used or is intended for
2 use in transporting or in any manner in facilitating the transporta-
3 tion, sale, receipt, possession, or concealment of property described
4 in (1) or (2) of this section in violation of a felony offense under
5 this chapter or AS 11.71; however,

6 (A) a conveyance may not be forfeited under this
7 paragraph if the owner of the conveyance establishes, by a pre-
8 ponderance of the evidence, at a hearing before the court as the
9 trier of fact, that use of the conveyance in violation of this
10 chapter or AS 11.71 was committed by another person and that the
11 owner was neither a consenting party nor privy to the violation;

12 (B) a forfeiture of a conveyance encumbered by a valid
13 security interest at the time of seizure is subject to the inter-
14 est of the secured party if the secured party establishes, by a
15 preponderance of the evidence, at a hearing before the court as
16 the trier of fact, that use of the conveyance in violation of
17 this chapter or AS 11.71 was committed by another person and that
18 the secured party was neither a consenting party nor privy to the
19 violation;

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

23 (6) property, including money, securities, or negotiable
24 instruments, that is

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

27 (B) used in, intended for use in, or used to facili-
28 tate a violation of this chapter or AS 11.71; or

29 (C) proceeds derived directly or indirectly from a

1 violation of this chapter or AS 11.71; [, OR OTHER THINGS OF
2 VALUE USED IN FINANCIAL TRANSACTIONS DERIVED FROM ACTIVITY PRO-
3 HIBITED BY THIS CHAPTER OR AS 11.71; AND]

4 (7) a firearm that [WHICH] is visible, carried during, or
5 used in furtherance of a violation of this chapter or AS 11.71; and

6 (8) real property, including interests in real property and
7 appurtenances and improvements to real property, that is used or
8 intended for use to commit, or to facilitate the commission of, a
9 felony offense under this chapter or AS 11.71; however

10 (A) real property may not be forfeited under this
11 paragraph if the owner of the real property establishes, by a
12 preponderance of the evidence, at a hearing before the court as
13 the trier of fact, that use of the real property in violation of
14 this chapter or AS 11.71 was committed by another person and that
15 the owner was neither a consenting party nor privy to the vio-
16 lation;

17 (B) a forfeiture of real property encumbered by a
18 valid security interest at the time of seizure is subject to the
19 interest of the secured party if the secured party establishes,
20 by a preponderance of the evidence, at a hearing before the court
21 as the trier of fact, that use of the real property in violation
22 of this chapter or AS 11.71 was committed by another person and
23 that the secured party was neither a consenting party nor privy
24 to the violation;

25 (9) property acquired, maintained, produced by, or derived
26 from proceeds obtained directly or indirectly from a violation of this
27 chapter or AS 11.71.

28 * Sec. 6. AS 17.30.112 is repealed and reenacted to read:

29 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE.

1 (a) Property listed in AS 17.30.110 may be forfeited to the state or
2 a municipality upon the order of the commissioner of public safety or
3 a chief of police in a summary administrative forfeiture proceeding
4 under AS 17.30.115, upon conviction of the defendant of a violation of
5 this chapter or AS 11.71, or upon judgment of a court in a separate
6 civil proceeding in rem.

7 (b) Unless the property is seized under a court order forfeiting
8 the property to the state or a municipality, the commissioner of
9 public safety or a chief of police, whoever is in custody of the
10 property, shall within 20 days after the property is seized under
11 AS 17.30.114

12 (1) cause a summary administrative forfeiture proceeding to
13 be commenced under AS 17.30.115;

14 (2) commence a civil proceeding in rem under AS 17.30.116;
15 or

16 (3) release the property, unless the property is subject to
17 AS 17.30.126.

18 (c) Notwithstanding (b) of this section, if forfeiture of seized
19 property is pursued as part of a criminal prosecution for a violation
20 of this chapter or AS 11.71, the commissioner of public safety or the
21 chief of police, whoever has custody of the property, may retain
22 custody of the property until the criminal prosecution is concluded or
23 until two years from the date of seizure, whichever occurs first.
24 This subsection does not prevent the release, remission, or sale of
25 the property under AS 17.30.120 - 17.30.138.

26 (d) A court may order a forfeiture in the in rem proceeding if
27 it finds that an item specified in AS 17.30.110 was used during or in
28 aid of a violation of this chapter or AS 11.71. It is not a defense
29 in an in rem proceeding brought under this chapter that a criminal

1 proceeding has resulted in a conviction or conviction of a lesser
2 offense for a violation of this chapter or AS 11.71.

3 * Sec. 7. AS 17.30.114 is amended to read:

4 Sec. 17.30.114. SEIZURE AND CUSTODY OF PROPERTY. (a) Property
5 listed in AS 17.30.110 may be seized by a peace officer upon an order
6 issued by a court having jurisdiction over the property upon a showing
7 of probable cause that the property may be forfeited under AS 17.30.-
8 110. Seizure without a court order may be made if

9 (1) the seizure is incident to a valid arrest or a search
10 under a valid search warrant;

11 (2) the property subject to seizure has been the subject of
12 an earlier judgment in favor of the state or a municipality in a
13 criminal proceeding or civil proceeding in rem under this chapter or
14 AS 11.71; or

15 (3) there is probable cause that the property was used, is
16 being used, or is intended for use, in violation of this chapter or
17 AS 11.71 and the property is easily movable; property seized under
18 this paragraph may not be held for more than 48 hours without a court
19 order obtained to continue its detention.

20 (b) Property taken or detained under (a) of this section shall
21 be held in the custody of either the commissioner of public safety or
22 a municipal law enforcement agency [AUTHORIZED BY THE COMMISSIONER OF
23 PUBLIC SAFETY TO RETAIN CUSTODY OF PROPERTY LISTED IN AS 17.30.110]
24 subject only to disposition under procedures set out in this chapter
25 [THE ORDERS AND DECREES OF THE COURT HAVING JURISDICTION OVER ANY
26 FORFEITURE PROCEEDINGS]. If property is seized under this chapter,
27 the commissioner of public safety or a [AN AUTHORIZED] municipal law
28 enforcement agency may

29 (1) place the property under seal;

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

2 or

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

5 (c) Within 10 days after a seizure under AS 17.30.110 - 17.30.-
6 138 [AS 17.30.110 - 17.30.126], the commissioner of public safety or
7 the chief of police shall make an inventory of any property seized,
8 including controlled substances, and shall estimate [APPRAISE] the
9 value of any items seized other than controlled substances.

10 * Sec. 8. AS 17.30 is amended by adding a new section to read:

11 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

12 (a) If the estimated value of seized property is \$100,000 or less or
13 if the seized property is a conveyance subject to forfeiture under
14 AS 17.30.110(4), the official who has custody of seized property may
15 commence a summary administrative forfeiture proceeding by

16 (1) giving notice of the forfeiture proceeding to persons
17 known to have an interest in the property or who are ascertainable
18 from official registration numbers, licenses, or other state, federal,
19 or municipal numbers on the property; and

20 (2) publishing notice of the proceeding in a newspaper of
21 general circulation in the judicial district where the seizure was
22 made, or if no newspaper is published in that judicial district, in a
23 newspaper published in the state and distributed in that judicial
24 district; the notice shall be published once each week during three
25 consecutive calendar weeks; the notice must

26 (A) describe the property seized, including motor and
27 serial numbers, if any;

28 (B) state the time, place, and cause of seizure; and

29 (C) state that a person claiming an interest in the

1 property shall, within 20 days from the date of the first publi-
2 cation of the notice, file with the official a claim to the
3 property and a bond in the proper amount.

4 (b) A person claiming property subject to a proceeding under
5 this section shall submit a claim and a bond to the official within 20
6 days after the date of first publication of the notice required under
7 this section.

8 (c) The bond with satisfactory sureties shall be in the amount
9 of \$2,500 or 10 percent of the estimated value of the property, which-
10 ever is lower, but not less than \$500. The bond shall be in cash,
11 certified check, or satisfactory sureties. The bond shall be rendered
12 to the state or municipality, as appropriate, with sureties approved
13 by the official and conditioned that in the event of judicial forfei-
14 ture of the property the obligor shall pay from the bond all costs and
15 expenses of the civil proceeding in rem.

16 (d) When the claim and bond are received, the official shall
17 determine that the claim and bond are in proper form and the sureties
18 are satisfactory. If the claim and bond are satisfactory, the offi-
19 cial shall terminate the proceeding and commence a civil proceeding in
20 rem under AS 17.30.116. Notwithstanding AS 17.30.112(b), the official
21 shall commence the civil proceeding in rem within 20 days after the
22 timely and satisfactory claim and bond are filed. If the claim and
23 bond are not satisfactory when first received, a reasonable time for
24 correction of the claim and bond may be allowed. If satisfactory
25 corrections are not made to the claim and bond within a reasonable
26 time, the official may proceed as though the claim and bond had not
27 been tendered.

28 (e) The filing of a timely and satisfactory claim and bond
29 terminates the summary administrative forfeiture proceeding, but does

1 not entitle the claimant to possession of the property.

2 (f) If a timely and satisfactory claim and bond are not filed
3 within the time required under this section, the official shall de-
4 clare the property forfeited. The official shall execute a declara-
5 tion of forfeiture.

6 (g) In this section

7 (1) "commissioner of public safety" includes an employee of
8 the Department of Public Safety designated by the commissioner to
9 conduct summary administrative forfeiture proceedings;

10 (2) "official" means the commissioner of public safety or
11 chief of police who has custody of seized property.

12 * Sec. 9. AS 17.30.116(a) is amended to read:

13 (a) If the estimated value of seized property is more than
14 \$100,000, or the commissioner of public safety or chief of police in
15 custody of seized property elects to commence a civil proceeding in
16 rem against property with an estimated value of \$100,000 or less or
17 against a conveyance, [WITHIN 20 DAYS AFTER A SEIZURE UNDER AS 17.-
18 30.110 - 17.30.126,] the commissioner of public safety or chief of
19 police shall, by certified mail, notify any person known to have an
20 interest in an item with an estimated [APPRAISED] value of \$500 or
21 more, or who is ascertainable from official registration numbers,
22 licenses, or other state, federal, or municipal numbers on the item,
23 of the pending forfeiture action. Additionally, the commissioner of
24 public safety or chief of police shall publish notice of forfeiture
25 action of an item valued at \$500 or more in a newspaper of general
26 circulation in the judicial district in which the seizure was made, or
27 if no newspaper is published in that judicial district, in a newspaper
28 published in the state and distributed in that judicial district. The
29 notice shall be published once each week during four consecutive

1 calendar weeks. The requirements of this subsection do not apply to

2 (1) a civil in rem proceeding commenced after a summary
3 administrative forfeiture proceeding is terminated upon the timely and
4 satisfactory filing of a claim and bond under AS 17.30.115(d); or

5 (2) the forfeiture of controlled substances which have been
6 manufactured, distributed, dispensed, or possessed in violation of
7 this chapter or AS 11.71, regardless of their value.

8 * Sec. 10. AS 17.30.120 is amended to read:

9 Sec. 17.30.120. PETITION FOR SALE OF SEIZED ITEM. A claimant
10 may petition the court for sale of an item before final disposition of
11 court proceedings. The court shall grant a petition for sale upon a
12 finding that the sale is in the best interests of the state or munic-
13 ipality, whichever is in custody of the property, and the preservation
14 and maintenance of the item seized. Proceeds from the sale plus
15 interest to the date of final disposition of the court proceedings
16 become the subject of the forfeiture action.

17 * Sec. 11. AS 17.30.122 is amended to read:

18 Sec. 17.30.122. STATE DISPOSAL OF FORFEITED PROPERTY. Property
19 forfeited to the state under AS 17.30.110 - 17.30.138, [AS 17.30.110 -
20 17.30.126] other than controlled substances, shall be disposed of by
21 the commissioner of administration in accordance with applicable law.
22 The commissioner of administration may

23 (1) destroy property harmful to the public;

24 (2) sell the property and use the proceeds for payment of
25 all proper expenses of the proceedings for forfeiture and sale, in-
26 cluding expenses of seizure, custody, and court costs; proceeds re-
27 maining from the sale of the property after expenses are paid shall be
28 deposited in the general fund;

29 (3) take custody of the property and authorize its use in

1 the enforcement of this chapter or AS 11.71, or transfer it to another
2 agency of the state or a political subdivision of the state for a use
3 in furtherance of the administration of justice;

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

6 (5) forward the property [IT] to the Drug Enforcement
7 Administration of the United States Department of Justice for disposi-
8 tion; or

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

11 * Sec. 12. AS 17.30.126(a) is amended to read:

12 (a) A controlled substance manufactured, possessed, transferred,
13 sold, or offered for sale in violation of this chapter or AS 11.71 is
14 contraband and must be seized and summarily forfeited to the state.
15 The commissioner of public safety or the commissioner's designee,
16 including a municipal law enforcement agency [AUTHORIZED UNDER AS 17.-
17 30.114(b) OF THIS SECTION TO RETAIN CUSTODY OF CONTROLLED SUBSTANCES],
18 is responsible for the disposal of controlled substances which have
19 been forfeited. The controlled substances shall be disposed of in
20 accordance with procedures and requirements prescribed by the commis-
21 sioner.

22 * Sec. 13. AS 17.30 is amended by adding a new section to article 2 to
23 read:

24 Sec. 17.30.138. DEFINITIONS. In AS 17.30.110 - 17.30.138

25 (1) "chief of police" means the head of a law enforcement
26 agency of a municipality;

27 (2) "municipality" means a municipality that has adopted an
28 ordinance under AS 29.35.135 providing for summary administrative
29 forfeiture proceedings to be conducted by the municipality's chief of

1 police;

2 (3) "violation of this chapter or AS 11.71" includes an
3 attempt or solicitation to violate this chapter or AS 11.71.

4 * Sec. 14. AS 29.10.200 is amended by adding a new paragraph to read:

5 (49) AS 29.35.135 (forfeiture of property under AS 04.16
6 and AS 17.30)

7 * Sec. 15. AS 29.35 is amended by adding a new section to read:

8 Sec. 29.35.135. FORFEITURE OF PROPERTY UNDER AS 04.16 and
9 AS 17.30. (a) The governing body may adopt ordinances authorizing
10 the chief of police to conduct a summary administrative forfeiture
11 proceeding under AS 04.16 and AS 17.30 for forfeiture of property
12 seized by the municipal law enforcement agency in cases involving
13 controlled substances, imitation controlled substances, and alcoholic
14 beverages.

15 (b) Property forfeited to the municipality under AS 04.16.220 -
16 04.16.260 and AS 17.30.110 - 17.30.138 shall be disposed of by the
17 municipality under applicable law and ordinance. The municipality may

18 (1) destroy property harmful to the public;

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

22 (3) take custody of the property and authorize its use in
23 the enforcement of AS 04.11, AS 04.16, AS 04.21.060, AS 11.71,
24 AS 11.73, or AS 17.30 or for a use in the administration of justice;

25 (4) take custody of the property and remove it for disposi-
26 tion under law; or

27 (5) forward property seized under AS 17.30 to the Drug
28 Enforcement Administration of the United States Department of Justice
29 for disposition.

1 * Sec. 16. AS 04.16.220(c), 04.16.220(d), 04.16.220(e), 04.16.220(f),
2 04.16.220(g), and 04.16.220(h) are repealed.
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