

BY SEN. STURGULEWSKI, Kelly, Kerttula, Pearce, Rodey, Binkley, Uehling

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 19

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH 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 alcoholic beverages, controlled
8 substances and imitation controlled substances."

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

10 * Section 1. AS 12.35 is amended by adding new sections to read:

11 ARTICLE 2. SEIZURE AND FORFEITURE OF PROPERTY.

12 Sec. 12.35.200. PROPERTY TO WHICH APPLICABLE. The provisions of
13 AS 12.35.200 - 12.35.399 apply to property subject to forfeiture under

14 (1) AS 04.16.230; and

15 (2) AS 11.73.060 and AS 17.30.110.

16 Sec. 12.35.210. SEIZURE. (a) Property subject to forfeiture
17 under AS 12.35.200 - 12.35.399 may be actually or constructively
18 seized by a peace officer under a warrant issued under AS 12.35.025 or
19 an order issued by the superior court upon a showing of probable cause
20 that the property is subject to forfeiture.

21 (b) Property subject to forfeiture may be actually or construc-
22 tively seized without a warrant or court order if

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

24 (2) the property subject to seizure is the subject of a
25 prior judgment in favor of the state or a municipality in a criminal
26 proceeding or civil proceeding in rem under this title; or

27 (3) there is probable cause to believe that the property
28 was used, is being used, or is intended for use in violation of state
29 law or municipal ordinance, and the property is easily movable.

1 (c) Constructive seizure is made by posting a signed notice of
2 seizure on the property to be forfeited, stating the violation and the
3 date and place of seizure.

4 Sec. 12.35.220. CUSTODY. Property seized under AS 12.35.210
5 must be held in the custody of the commissioner subject only to dispo-
6 sition under this chapter. The commissioner shall

7 (1) place the seized property under seal;

8 (2) remove the seized property to a place designated by the
9 court; or

10 (3) take custody of the seized property and remove it to an
11 appropriate location for disposition in accordance with law.

12 Sec. 12.35.230. DURATION OF SEIZURE. (a) Except as provided in
13 (b) and (c) of this section, property seized under AS 12.35.210(b)(3)
14 may not be held longer than 48 hours or until an order of forfeiture
15 is issued by the court, whichever is earlier.

16 (b) The limitation imposed by (a) of this section does not apply
17 to alcoholic beverages possessed in violation of AS 04.11.498 or to
18 controlled substances possessed in violation of AS 11.71.

19 (c) If forfeiture of seized property is pursued as part of a
20 criminal prosecution, the commissioner may retain custody of the
21 property until the criminal prosecution is concluded. This subsection
22 does not prevent the commissioner from

23 (1) releasing the property;

24 (2) remitting the property under a court order issued under
25 AS 12.35.310; or

26 (3) selling the property under a court order issued under
27 AS 12.35.320.

28 Sec. 12.35.240. INVENTORY AND VALUATION. (a) Within 10 days
29 after a seizure of property under AS 12.35.220, the commissioner shall

- 1 (1) make an inventory of the property; and
2 (2) estimate its value.

3 (b) The inventory and valuation prepared under (a) of this
4 section shall be sent to the attorney general.

5 (c) If the attorney general determines that a forfeiture pro-
6 ceeding cannot be sustained or as a matter of discretion a forfeiture
7 proceeding will not be instituted, the attorney general shall send a
8 written report of that decision to the commissioner. Except as pro-
9 vided in AS 17.30.115(b), the commissioner shall return the property
10 to its owner.

11 Sec. 12.35.250. PROCEEDINGS RESULTING IN FORFEITURE. (a) A
12 forfeiture proceeding may be initiated by the state by

13 (1) filing a motion to forfeit in a criminal proceeding
14 relating to the conduct that makes the property subject to forfeiture;

15 (2) commencing a summary administrative forfeiture pro-
16 ceeding under AS 12.35.270; or

17 (3) commencing a civil proceeding in rem under AS 12.35.-
18 280.

19 (b) The provisions of (a) of this section do not apply if the
20 property was seized under a court order forfeiting the property to the
21 state.

22 Sec. 12.35.260. NOTICE. Before forfeiture, and within 20 days
23 after property is seized under AS 12.35.210, the commissioner shall

24 (1) make reasonable efforts to ascertain the identity and
25 location of the owner of the property seized and the identity and
26 location of a person holding an interest in the property seized;

27 (2) in any manner authorized for service of process under
28 the rules of civil procedure, notify

29 (A) the owner of the seized property, if the owner's

1 identity is known; and

2 (B) each person ascertained to have an interest in the
3 seized property of the impending forfeiture; and

4 (3) begin to publish notice as required by

5 (A) AS 12.35.270(b) for property to be forfeited in a
6 summary administrative forfeiture proceeding; or

7 (B) AS 12.35.280(b) for property to be forfeited by an
8 in rem forfeiture proceeding.

9 Sec. 12.35.270. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

10 (a) The provisions of this section apply when the

11 (1) estimated value of seized property is \$100,000 or less;

12 or

13 (2) seized property is a conveyance subject to forfeiture.

14 (b) The commissioner may commence a summary administrative
15 forfeiture proceeding by giving notice of the proceeding in the manner
16 authorized for service of process under the rules of civil procedure.
17 Unless otherwise provided in the rules of civil procedure, the commis-
18 sion shall publish, once a week for three consecutive calendar weeks,
19 a notice of the impending forfeiture in a newspaper of general circu-
20 lation in the judicial district in which the seizure was made, or if a
21 newspaper is not published in that judicial district, in a newspaper
22 published in the state and distributed in that judicial district. The
23 notice provided must

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

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

27 (3) state that a person claiming an interest in the proper-
28 ty must, within 20 days from the date of first publication of the
29 notice, file with the commissioner a claim to the property and a bond

1 in the proper amount.

2 (c) A person claiming property subject to a proceeding under
3 this section shall submit a claim and a bond to the commissioner. The
4 bond must be

5 (1) in the amount of \$2,500 or 10 percent of the appraised
6 value of the property, whichever is less, but not less than \$500;

7 (2) rendered to the state with sureties approved by the
8 official having custody of the property.

9 (d) In lieu of the bond required by (c) of this section, the
10 person claiming the property may deposit with the state cash or a
11 certified check in the amount required by (c)(1) of this section.

12 (e) The bond required by (c) of this section or the deposit
13 authorized by (d) of this section must be conditioned to secure the
14 payment of all reasonable costs and expenses of the judicial forfei-
15 ture proceeding if the court orders the property forfeited.

16 (f) When the claim and bond or deposit are received, the commis-
17 sioner shall determine if the claim and bond or deposit are in proper
18 form and the sureties are satisfactory.

19 (g) If the claim and bond or deposit are satisfactory, the
20 commissioner shall terminate the summary administrative forfeiture
21 proceeding and commence a civil proceeding in rem. If the claim and
22 bond or deposit are not satisfactory when first received, the commis-
23 sioner shall allow five days for correction of the claim and bond or
24 deposit; if satisfactory corrections are not made to the claim and
25 bond or deposit within five days, the commissioner may proceed as
26 though the claim and bond or deposit had not been tendered. The
27 filing of a timely and satisfactory claim and bond or deposit termi-
28 nates the summary administrative forfeiture proceeding, but does not
29 entitle the claimant to possession of the property.

1 (h) If the summary administrative proceeding is terminated under
2 (g) of this section, the commissioner shall commence a civil proceed-
3 ing in rem within 20 days after the timely and satisfactory claim and
4 bond or deposit are filed.

5 (i) If a timely and satisfactory claim and bond or deposit are
6 not filed within the time required under this section, the commis-
7 sioner

8 (1) shall declare the property forfeited; and

9 (2) execute a declaration of forfeiture.

10 Sec. 12.35.280. IN REM FORFEITURE PROCEEDING. (a) Unless the
11 property is handled in a summary administrative forfeiture proceeding,
12 or by a motion to forfeit in a criminal proceeding, or is released in
13 accordance with law, the commissioner shall commence an in rem forfei-
14 ture proceeding.

15 (b) In addition to the requirements of AS 12.35.260(1), the
16 commissioner shall, in the manner authorized for service of process
17 under the rules of civil procedure, publish notice. Unless otherwise
18 provided in the rules of civil procedure, the commissioner shall
19 publish, once a week for four consecutive calendar weeks, a notice of
20 the impending forfeiture in a newspaper of general circulation in the
21 judicial district in which the seizure was made, or if a newspaper is
22 not published in that judicial district, in a newspaper published in
23 the state and distributed in that judicial district. Unless the
24 content of the notice is otherwise provided for in the rules of civil
25 procedure, the notice provided must

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

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

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

1 property must, within the time prescribed for answering a civil com-
2 plaint under the rules of civil procedure, file with the court an
3 answer and a claim to the property.

4 (c) The requirements of (b) of this section do not apply to a
5 civil in rem proceeding commenced after a summary administrative
6 forfeiture proceeding is terminated upon the timely and satisfactory
7 filing of a claim and bond or deposit under AS 12.35.270(f).

8 (d) If a claim and answer are not filed within the time speci-
9 fied, the court may order forfeiture of the property subject to the in
10 rem proceeding without further proceedings or showings.

11 (e) The court may consider any claim and answer. Questions of
12 fact or law raised by a notice of commencement of a forfeiture pro-
13 ceeding must be determined by the court sitting without a jury.

14 (f) At the conclusion of the in rem proceeding, the court may
15 order a forfeiture if it finds that property is subject to forfeiture
16 under applicable law.

17 (g) An in rem forfeiture proceeding may be held in abeyance
18 until the conclusion of any pending criminal charges against the
19 claimant.

20 Sec. 12.35.290. LIMITATION ON DEFENSE IN AN IN REM PROCEEDING.
21 It is not a defense in an in rem proceeding brought under AS 12.35.280
22 that a criminal proceeding is pending or has resulted in a conviction,
23 an acquittal, or a conviction of a lesser offense of the violation for
24 which forfeiture is authorized by law.

25 Sec. 12.35.300. STATUS OF PROPERTY ORDERED FORFEITED. (a)
26 There is created in favor of the state a perfected priority lien over
27 property that has been forfeited under AS 12.35.270(i), 12.35.280(f),
28 or by order of the court on a motion made in a criminal proceeding.
29 The lien may not exceed the amount that is the sum of the expenses of

1 investigation, prosecution, and forfeiture arising out of the conduct
2 making the property subject to forfeiture. In calculating the amount
3 of the lien, expenses of all state, federal, or local agencies are to
4 be included.

5 (b) The lien created in (a) of this section has priority over a
6 security interest in the property that is unperfected at the time the
7 property is seized.

8 Sec. 12.35.310. REMISSION OR RELIEF FROM THE FORFEITURE. (a)
9 Property subject to forfeiture under this chapter may not be forfeited
10 if the owner of the property shows, by a preponderance of the evi-
11 dence, at a hearing before the court as the trier of fact, that

12 (1) the owner had title to the property, acquired in good
13 faith;

14 (2) the violation of law subjecting the property to forfei-
15 ture was committed by another person;

16 (3) the owner was not a party to the violation; and

17 (4) the owner did not have actual knowledge or reasonable
18 cause to believe that

19 (A) the property was used or was to be used in vio-
20 lation of the law or ordinance;

21 (B) the property was or might be subject to forfeiture
22 under AS 12.35.200 - 12.35.399; and

23 (C) a person using the property with the claimant's
24 permission or acquiescence, except persons using common carriers,
25 had a criminal record or reputation for offenses involving prop-
26 erty that might be subject to forfeiture under AS 12.35.200 -
27 12.35.399.

28 (b) The holder of a valid security interest, lien, mortgage,
29 deed of trust, conditional sales contract, or right to possession is

1 entitled to retain the holder's interest by showing, by a preponder-
2 ance of the evidence at a hearing before the court as the trier of
3 fact, that

4 (1) the holder has a valid interest in the property, as
5 evidenced by a security interest, right to possession, lien, mortgage,
6 deed of trust, or conditional sales contract;

7 (2) the violation of law subjecting the property to forfei-
8 ture was committed by another person;

9 (3) the holder was not a party to the violation; and

10 (4) the holder did not have actual knowledge or reasonable
11 cause to believe that the property was used or was to be used in
12 violation of the law or ordinance.

13 Sec. 12.35.320. SALE OF SEIZED ITEM. (a) A person who has a
14 claim on seized property may petition the court for sale of the prop-
15 erty before final disposition of court proceedings.

16 (b) The court shall grant a petition for sale upon a finding
17 that sale of the property is in the best interests of the state and
18 will serve to preserve and maintain the property.

19 (c) Proceeds from the sale of property authorized by this sec-
20 tion plus interest to the date of final disposition of the court
21 proceedings become the subject of the forfeiture action.

22 Sec. 12.35.330. DISPOSAL OF PROPERTY UPON FORFEITURE. (a) The
23 court shall place alcoholic beverages forfeited under this chapter in
24 the custody of a peace officer of the state. The alcoholic beverages
25 must be destroyed not later than 30 days after forfeiture.

26 (b) Except for property disposed of under (a) of this section,
27 the court shall place all property forfeited under this chapter in the
28 custody of the commissioner. The commissioner shall destroy property
29 placed in the commissioner's custody under this subsection if the

1 property is harmful to the public. The commissioner

2 (1) may

3 (A) transfer ownership of aircraft to the Alaska Wing,
4 Civil Air Patrol;

5 (B) authorize use of the property in the enforcement
6 of this title;

7 (C) transfer the property to another agency of the
8 state or a law enforcement agency of the United States government
9 for a use in furtherance of the administration of justice; or

10 (D) transfer property or the proceeds of its sale to
11 one or more political subdivisions of the state for significant
12 contributions by the political subdivision to the investigation
13 of the conduct making the property subject to forfeiture; a
14 transfer to a political subdivision under this subparagraph

15 (i) may not exceed 90 percent of the net value of
16 the forfeited property unless the attorney general disclaims
17 all state interest in the property or the proceeds; and

18 (ii) must reflect an equitable allocation based on
19 the percentage of the law enforcement work accomplished by
20 the state and the political subdivision, unless the state
21 and the political subdivision have agreed, before the inves-
22 tigation, to a specific transfer; and

23 (2) shall order all other property that has been forfeited
24 to the state sold.

25 (c) When the property has been sold under (b) of this section,
26 unless the proceeds are transferred under (b)(1) of this section, the
27 commissioner

28 (1) may use the proceeds, subject to appropriation by the
29 legislature, for payment of expenses of the proceedings for forfeiture

1 and sale, including expenses of seizure, custody, and court costs, if
2 any; and

3 (2) shall deposit the remainder of the proceeds in the gen-
4 eral fund.

5 (d) The commissioner of administration shall separately account
6 for the proceeds from the sale of forfeited property under this sec-
7 tion that the commissioner deposits in the general fund. The annual
8 estimated balance in the account may be used by the legislature to
9 make appropriations to the Department of Public Safety for the pur-
10 poses described in (d) of this section.

11 Sec. 12.35.399. DEFINITIONS. In AS 12.35.200 - 12.35.399

12 (1) "commissioner" means the commissioner of public safety;

13 (2) "security interest" has the meaning given in AS 45.01.-
14 201.

15 * Sec. 2. AS 04.11.020(a) is amended to read:

16 (a) A license or permit is not required to authorize sales made
17 by a person under a judgment and decree of foreclosure or [,] under
18 the bankruptcy law of the United States [, OR UNDER ORDER OF THE BOARD
19 OR A COURT UNDER AS 04.16.220].

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

21 Sec. 04.16.230. PROPERTY SUBJECT TO FORFEITURE. The following
22 are subject to forfeiture to the state under AS 12.35.200 - 12.35.399:

23 (1) alcoholic beverages

24 (A) manufactured, sold, offered for sale or possessed
25 for sale, bartered, or exchanged for goods and services in this
26 state in violation of AS 04.11.010;

27 (B) possessed, stocked, warehoused, or otherwise
28 stored in violation of AS 04.21.060;

29 (C) sold or offered for sale in an area where the

1 results of a local option election have, under AS 04.11.490 -
2 04.11.500, prohibited the possession of alcoholic beverages or
3 prohibited the board from issuing, renewing, or transferring one
4 or more licenses or permits under this title in the area;

5 (D) transported into the state and sold to persons not
6 licensed under this chapter in violation of AS 04.16.170(b);

7 (2) materials and equipment used

8 (A) in the manufacture, sale, offering for sale, pos-
9 session for sale, barter, or exchange of alcoholic beverages for
10 goods and services in this state in violation of AS 04.11.010;

11 (B) in the stocking, warehousing, or storage of alco-
12 holic beverages in violation of AS 04.21.060;

13 (C) in the sale or offering for sale of an alcoholic
14 beverage in an area where the results of a local option election
15 have, under AS 04.11.490 - 04.11.500, prohibited the board from
16 issuing, renewing, or transferring one or more licenses or per-
17 mits under this title in the area;

18 (3) a conveyance, including but not limited to aircraft,
19 vehicles, or vessels, used to transport, or facilitate the transporta-
20 tion of

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

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

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

28 (4) alcoholic beverages found on licensed premises that do
29 not bear federal excise stamps if excise stamps are required under

1 federal law;

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

4 (6) real property, including interests in real property and
5 appurtenances and improvements to real property, that is used or
6 intended for use to manufacture, store, distribute, sell, or offer for
7 sale alcoholic beverages in violation of AS 04.11.010 or AS 04.21.060,
8 or an ordinance adopted under AS 04.11.490 - 04.11.500;

9 (7) property, including money, securities, or negotiable
10 instruments, that is

11 (A) furnished by a person in exchange for alcoholic
12 beverages manufactured, stored, distributed, sold, or offered for
13 sale in violation of AS 04.11.010 or AS 04.21.060, or an ordi-
14 nance adopted under AS 04.11.490 - 04.11.500;

15 (B) used in, intended for use in, or used to facili-
16 tate a violation of AS 04.11.010 or AS 04.21.060, or an ordinance
17 adopted under AS 04.11.490 - 04.11.500; or

18 (C) proceeds derived directly or indirectly from a
19 violation of AS 04.11.010 or AS 04.21.060, or an ordinance adopt-
20 ed under AS 04.11.490 - 04.11.500;

21 (8) property acquired, maintained, or derived from proceeds
22 obtained directly or indirectly from a violation of AS 04.11.010 or
23 AS 04.21.060, or an ordinance adopted under AS 04.11.490 - 04.11.500;

24 (9) a firearm that is visible, carried during, or used in
25 furtherance of a violation of AS 04.11.010 or AS 04.21.060, or an
26 ordinance adopted under AS 04.11.490 - 04.11.500.

27 Sec. 04.16.240. FORFEITURE AUTHORIZED. Property subject to
28 forfeiture under AS 04.16.230 may be forfeited to the state upon

29 (1) conviction of a person under AS 04.11.010 or

1 AS 04.21.060, or upon conviction for violating an ordinance adopted
2 under AS 04.11.490 - 04.11.500;

3 (2) the order of the commissioner of public safety in a
4 summary administrative forfeiture proceeding under AS 12.35.270; or

5 (3) judgment by the superior court in a proceeding in rem
6 that the property was used in a manner subjecting it to forfeiture
7 under AS 12.35.200 - 12.35.399.

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

9 Sec. 11.73.060. FORFEITURES. (a) Property used during or in
10 aid of a violation of this chapter may be forfeited to the state to
11 the extent permitted under AS 17.30.110 - 17.30.115 [AND IN ACCORDANCE
12 WITH THE PROVISIONS OF AS 17.30.110 - 17.30.126].

13 (b) For purposes of this section the terms "controlled sub-
14 stance" and "this chapter", as used in AS 17.30.110 - 17.30.115
15 [AS 17.30.110 - 17.30.126], shall be construed as "imitation con-
16 trolled substance" and "AS 11.73" respectively.

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

18 Sec. 17.30.110. PROPERTY [ITEMS] SUBJECT TO FORFEITURE. The
19 following may be forfeited to the state under AS 12.35.200 - 12.35.-
20 399:

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

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

29 (3) property that [WHICH] is used or intended for use as a

1 container for property described in (1) or (2) of this section;

2 (4) a conveyance, including but not limited to aircraft,
3 vehicles, or vessels, that [WHICH] has been used or is intended for
4 use in transporting or in any manner [IN] facilitating the transporta-
5 tion, sale, receipt, possession, or concealment of property described
6 in (1) or (2) of this section in violation of a felony offense under
7 this chapter or AS 11.71 [; HOWEVER,

8 (A) A CONVEYANCE MAY NOT BE FORFEITED UNDER THIS
9 PARAGRAPH IF THE OWNER OF THE CONVEYANCE ESTABLISHES, BY A PRE-
10 PONDERANCE OF THE EVIDENCE, AT A HEARING BEFORE THE COURT AS THE
11 TRIER OF FACT, THAT USE OF THE CONVEYANCE IN VIOLATION OF THIS
12 CHAPTER OR AS 11.71 WAS COMMITTED BY ANOTHER PERSON AND THAT THE
13 OWNER WAS NEITHER A CONSENTING PARTY NOR PRIVY TO THE VIOLATION;

14 (B) A FORFEITURE OF A CONVEYANCE ENCUMBERED BY A VALID
15 SECURITY INTEREST AT THE TIME OF SEIZURE IS SUBJECT TO THE INTER-
16 EST OF THE SECURED PARTY IF THE SECURED PARTY ESTABLISHES, BY A
17 PREPONDERANCE OF THE EVIDENCE, AT A HEARING BEFORE THE COURT AS
18 THE TRIER OF FACT, THAT USE OF THE CONVEYANCE IN VIOLATION OF
19 THIS CHAPTER OR AS 11.71 WAS COMMITTED BY ANOTHER PERSON AND THAT
20 THE SECURED PARTY WAS NEITHER A CONSENTING PARTY NOR PRIVY TO THE
21 VIOLATION];

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

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

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 in, intended for use in, or used to

1 facilitate a violation of this chapter or AS 11.71; or

2 (C) proceeds derived directly or indirectly from a
3 violation of this chapter or AS 11.71; [, OR OTHER THINGS OF
4 VALUE USED IN FINANCIAL TRANSACTIONS DERIVED FROM ACTIVITY PRO-
5 HIBITED BY THIS CHAPTER OR AS 11.71; AND]

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

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

12 (9) property acquired, maintained, or derived from proceeds
13 obtained directly or indirectly from a violation of this chapter or
14 AS 11.71.

15 * Sec. 6. AS 17.30 is amended by adding a new section to read:

16 Sec. 17.30.115. FORFEITURE AUTHORIZED. (a) Property listed in
17 AS 17.30.110 may be forfeited to the state upon

18 (1) the order of the commissioner of public safety in a
19 summary administrative forfeiture proceeding under AS 12.35.270;

20 (2) conviction of the defendant of a violation of this
21 chapter or AS 11.71; or

22 (3) judgment of a court in a proceeding in rem that the
23 property was used in a manner subjecting it to forfeiture under
24 AS 12.35.200 - 12.35.399.

25 (b) Notwithstanding (a) of this section, a controlled substance
26 manufactured, possessed, transferred, sold, or offered for sale in
27 violation of this chapter or AS 11.71 and plants from which controlled
28 substances may be derived and that have been planted or cultivated in
29 violation of this chapter or AS 11.71, or that are grown in the wild

1 are contraband and must be seized and summarily forfeited to the
2 state. The commissioner of public safety or the commissioner's desig-
3 nee is responsible for the disposal of controlled substances that have
4 been forfeited. The controlled substances shall be disposed of in
5 accordance with procedures and requirements prescribed by the commis-
6 sioner.

7 * Sec. 7. AS 17.30 is amended by adding a new section to read:

8 Sec. 17.30.119. DEFINITION. In AS 17.30.110 - 17.30.119, "vio-
9 lation of this chapter or AS 11.71" includes an attempt or sollicita-
10 tion to violate this chapter or AS 11.71.

11 * Sec. 8. AS 18.60.148(a) is amended to read:

12 (a) A transfer to the Alaska Wing, Civil Air Patrol, of a for-
13 feited aircraft under AS 12.35.200 - 12.35.399 or AS 16.05.195(f) [,
14 AS 17.30.122, OR ANOTHER STATE LAW OR REGULATION] is subject to the
15 following conditions:

16 (1) the transfer shall be made without cost to the Civil
17 Air Patrol;

18 (2) the aircraft becomes a corporate Civil Air Patrol
19 aircraft;

20 (3) the aircraft may only be used for Civil Air Patrol
21 search and rescue, civil defense, and training purposes;

22 (4) the aircraft may not be transferred to another wing of
23 the Civil Air Patrol unless

24 (A) the aircraft has been corporate aircraft of the
25 Alaska Wing, Civil Air Patrol for at least 36 months after the
26 date of transfer to the Alaska Wing; or

27 (B) the aircraft is being exchanged for another Civil
28 Air Patrol corporate aircraft of equivalent or greater value;

29 (5) if the Civil Air Patrol determines that the aircraft

1 should be disposed of as surplus property, the disposition shall first
2 be approved by the Department of Administration.
3 * Sec. 9. AS 04.16.220; AS 17.30.112, 17.30.114, 17.30.116, 17.30.118,
4 17.30.120, 17.30.122, 17.30.124, and 17.30.126 are repealed.