

H B

195

**COMMITTEE REPORT**  
**SENATE**

FURTHER:

Date: \_\_\_\_\_

Mr. President:

The Committee on \_\_\_\_\_ has had \_\_\_\_\_

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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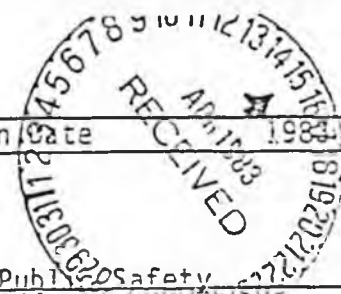
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\_\_\_\_\_  
CHAIRMAN

STATE OF ALASKA  
FISCAL NOTE

Revision/Date



I. REQUEST

Bill/Resolution No.: CSHR 105 (JIN)  
 Title: An Act Permitting Transfer Of...  
 Sponsor: House Judiciary  
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: Security  
 BRU, Program of Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis: No Fiscal Impact Anticipated

Prepared By: Paul Conger

Phone: 465-4338

Division: Administrative Services

Date: 4/14/83

Approved by Commissioner: [Signature]

Date: 4/14/83

Department: Public Safety

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON


LABOR AND COMMERCE COMMITTEE, CHAIRMAN  
RESOURCES COMMITTEE  
JUDICIARY COMMITTEE  
FISHERIES SUB-COMMITTEE



P.O. BOX 143  
SITKA, ALASKA 99835  
FOUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4916

MEMORANDUM

TO: Sen. Bill Ray, Chair  
Senate Judiciary Committee

FROM: Sen. Dick Eliason 

DATE: May 5, 1983

RE: CSHB 195(Jud) --- "An Act permitting transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol."

As requested, I reviewed the above-referenced legislation and I am now reporting my findings to you.

CSHB 195(Jud), introduced by Rep. Mike Davis, would permit the transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol. The transfer would be made without cost to the Civil Air Patrol with the understanding that the aircraft would be used only for C.A.P. search and rescue, civil defense, and training purposes.

On May 4, Senators Bennett, Halford, and P. Fischer introduced similar legislation: SB 290. Conditions regulating the transfer of air craft as outlined in CSHB 195(Jud) is not addressed in SB 290.

Attachments

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

P. O. BOX 6188, ANNEX  
ANCHORAGE, ALASKA 99502

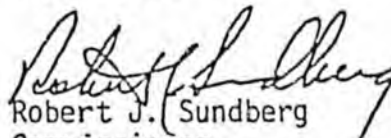
February 18, 1983

Representative Mike Davis  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Davis:

The Division of Fish and Wildlife Protection is the primary agency within the Department of Public Safety that becomes involved in the seizure and subsequent forfeiture of aircraft. Neither the Division nor I see any problem with HB 195.

Sincerely,

  
Robert J. Sundberg  
Commissioner

MAR 2 1983

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

P. O. BOX 6188, ANNEX  
ANCHORAGE, ALASKA 99502

February 18, 1983

Representative John Ringstad  
Chairman, House Resources Committee  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Representative Ringstad:

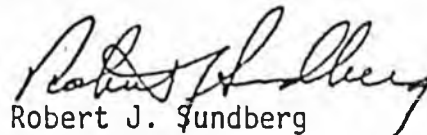
I would like to present the following position which the Division of Fish and Wildlife Protection, Department of Public Safety holds with regard to the subsequent House Bill under proposal:

HB 195 - Neutral

This Bill should be carefully researched to insure Alaska constitutional provisions and procedures are not by-passed in the transfer of State property.

The majority of aircraft forfeited to the State are in the cub class, which may not be the appropriate plane for civil air patrol. Most aircraft that have been forfeited to the State in the past have needed extensive repair in order to be airworthy. This would require facilities or funds for putting an aircraft in an airworthy condition. The State should not be held liable for the condition of the aircraft at the time of transfer of ownership.

Sincerely,



Robert J. Sundberg  
Commissioner

# Alaska State Legislature

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JUNEAU, ALASKA 99811  
(907) 463-4947



HOUSE MAJORITY WHIP

CHAIRMAN  
STATE AFFAIRS

MEMBER  
TRANSPORTATION  
LEGISLATIVE COUNCIL

Representative Mitch Abood  
HOUSE DISTRICT 11

## MEMORANDUM

TO: Representative John Ringstad, Co-Chairman  
Representative Richard Shultz, Co-Chairman  
House Resources Committee

FROM: Representative Mitch Abood *Mitch*

DATE: March 1, 1983

RE: HB 195  
"An Act permitting transfer of forfeited aircraft to the Alaska  
Wing, Civil Air Patrol"

The Civil Air Patrol is providing a great service to the public in its search and rescue efforts, and the transfer of confiscated aircraft to the Civil Air Patrol would tremendously benefit this outstanding operation.

The Civil Air Patrol provides emergency search and rescue services to those individuals who wind up in trouble in the vast outlying areas of Alaska. Because of the age of the aircraft and the great number of hours the CAP spends on search and rescue efforts, it is imperative that the aircraft and equipment used in service be replaced periodically to insure the utmost in safety of the operations. The CAP is currently replacing its aircraft with funds of their own, and the process is quite lengthy in their efforts to procure new aircraft from Outside.

It is with this in mind that I highly recommend the passage of HB 195, "An Act permitting transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol".

cc: Representative Mike Davis

STATE OF ALASKA  
FISCAL NOTE

Revision (Date) 4/14/93



I. REQUEST

Bill/Resolution No.: CSHR 195 (HND)  
 Title: An Act Permitting Transfer Of....  
 Sponsor: House Judiciary  
 Requestor: House Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: FWP  
 BRU, Program of Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis: No Fiscal Impact Anticipated

Prepared By: Paul Conger Phone: 465-4338  
 Division: Administrative Services Date: 4/14/93  
 Approved by Commissioner: [Signature] Date: 4/14/93  
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

Bill No: House Bill 195 Date on Bill: 2/14/83  
 Title: Transfer of Forfeited Aircraft to CAP  
 Sponsor: Davis, Hurlbert, and McBride  
 Requestor: Rep. Hurlbert

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-	-0-		
Operating			-0-	-0-	-0-	-0-		
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No apparent fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: *R.L.R.* Richard L. Rountree Phone: 465-4601  
 Division: Administrative Services Date: 2/16/83  
 Approved by Commissioner: *E. G. Pagano* Major General Edward G. Pagano Date: 2/16/83  
 Department: Military Affairs

Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83

Bill No: HB 195

Date on Bill: 2/14/83

Title: an act permittino transfer of forfeited aircraft to the Alaska wing, CIVIL AIR MAR

Sponsor: Davis, Hurlbert & McBride

Requestor: HOUSE RESOURCES

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	0

b. Revenues:

	FY 83	FY 84	FY 85	FY 86
Revenue	0	0	0	0

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No fiscal impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Colonel Robert J. Stickles

Phone: 269-5532

Division: Fish & Wildlife Protection

Date: Feb. 10, 1983

Approved by Commissioner: *[Signature]*

Date: 2/26/83

Department: PUBLIC SAFETY

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

# ALASKA STATE LEGISLATURE

INTERIM OFFICE:  
P.O. BOX 81435  
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IN SESSION:  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4930/4941



CHAIRMAN  
1983 INTERIOR DELEGATION

MEMBER  
TRANSPORTATION  
HEALTH, EDUCATION AND SOCIAL SERVICES  
LABOR SUBCOMMITTEE  
JOINT OIL AND GAS  
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis  
House District 19

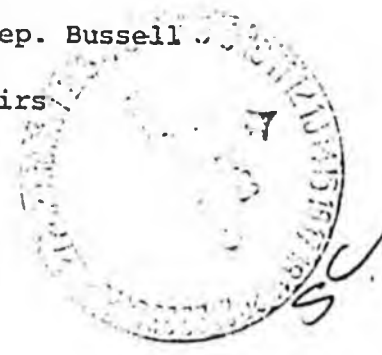
## MEMORANDUM

To: Rep. McBride, Rep. Abood, Rep. Hurlbert, Rep. Bussell  
Bob Head, Department of Administration  
Dick Rountree, Department of Military Affairs

From: Rep. Mike Davis *Mike*

Date: April 8, 1983

Re: House Bill 195



Attached is a substitute version of House Bill 195 which will be brought up before the House Judiciary Committee on Friday, April 15. The purpose of this substitute is to further clarify the original legislative intent of HB 195.

(c) A person who, either by himself or with another, wilfully deprives a member of the National Guard or Naval Militia of his employment or prevents his being employed by himself or another, or obstructs or annoys the member of the National Guard or Naval Militia or his employer in respect of his trade, business or employment, because the member of the National Guard or Naval Militia is a member, or in any way dissuades any person from enlisting in the National Guard or Naval Militia by threat or injury to him in respect of his employment, trade or business, if he so enlists, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$100.

(d) All matters relating to the organization, discipline and government of the National Guard or Naval Militia, not otherwise provided for by the laws of the United States, this chapter, or regulations issued by the president shall be governed by regulations issued by the adjutant general and approved by the governor, and the regulations when adopted, have the same force and effect as though enacted in this chapter. (§ 36 ch 150 SLA 1955; am §§ 18 — 20 ch 34 SLA 1973)

**Sec. 26.05.345. Civil Air Patrol.** The adjutant general shall make the necessary administrative arrangements for maintaining liaison between the state and the Civil Air Patrol and the expenditure of funds appropriated to the department for the state contribution toward the support of the authorized activities of the Alaska Wing, Civil Air Patrol, under its charter. (§ 3 ch 70 SLA 1965; Executive Order No. 33 (1968))

**Revisor's note.** — The following executive order, signed by Governor Walter J. Hickel, was transmitted to the legislature on January 23, 1968. It was not disapproved by the legislature during the 1968 session and therefore became law under the provisions of sec. 23, art. III of the Alaska Constitution and AS 24.30.130.

**"EXECUTIVE ORDER NO. 33.** Pursuant to the authority vested in me by Sec. 23, Art. III, Constitution of the State of Alaska, the State's responsibilities toward the Alaska Wing, Civil Air Patrol, as set forth in AS 44.33.110, are hereby transferred from the Department of Commerce to the Department of Military Affairs. The effective date of such transfer shall be July 1, 1968.

"Dated at Juneau, Alaska this 22nd day of January, 1968."

This section, except for the designation of the responsible official, formerly was AS 44.33.110.

**Editor's note.** — Chapter 70, SLA 1965, included the following: "Sec. 1. Purpose. The Civil Air Patrol is an auxiliary of the United States Air Force operating under charter from Congress, and it operates in all states and the District of Columbia and the Commonwealth of Puerto Rico. The Civil Air Patrol has as its purpose the organizing of public-spirited citizens in civil aviation into a volunteer semi-military organization to assist in civil defense efforts, train teen-age cadets in pre-flight instruction, conduct missing-aircraft search service, and assist in search and rescue missions, and special missions for state and federal agencies. It is the purpose of this Act to make formal provision for the administration of the financial support of the state's participation in the program of the Civil Air Patrol."

**Sec. 26.05.350. Short title.** This chapter may be cited as the Military Code of Alaska. (§ 1 ch 150 SLA 1955)

Title 27  
Mining

Title 28  
Motor Vehicles

Title 29  
Municipal Government

ARTICLE 1.  
THE DEPARTMENT OF FISH AND GAME.

TATION SEC. 16.05.195.

TOP LINE

FORFEITURE OF EQUIPMENT.

BT

(A) GUNS, TRAPS, NETS, FISHING GEAR, VESSELS, AIRCRAFT, OTHER MOTOR VEHICLES, SLEDS, AND OTHER PARAPHERNALIA OR GEAR USED IN OR IN AID OF A VIOLATION OF THIS TITLE, OR REGULATION PROMULGATED UNDER THIS TITLE, AND ALL FISH AND GAME OR PARTS OF FISH AND GAME OR NESTS OR EGGS OF BIRDS TAKEN, TRANSPORTED OR POSSESSED CONTRARY TO THE PROVISIONS OF THIS TITLE, OR REGULATION PROMULGATED UNDER IT, MAY BE FORFEITED TO THE STATE

(1) UPON CONVICTION OF THE OFFENDER IN A CRIMINAL PROCEEDING OF A VIOLATION OF THIS TITLE IN A COURT OF COMPETENT JURISDICTION; OR

(2) UPON JUDGMENT OF A COURT OF COMPETENT JURISDICTION IN A PROCEEDING IN REM THAT AN ITEM SPECIFIED ABOVE WAS USED IN OR IN AID OF A VIOLATION OF THIS TITLE OR A REGULATION PROMULGATED UNDER IT.

(B) ITEMS SPECIFIED IN (A) OF THIS SECTION MAY BE FORFEITED UNDER THIS SECTION REGARDLESS OF WHETHER THEY WERE SEIZED BEFORE

16.05.195 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

INSTITUTING THE FORFEITURE ACTION.

(C) AN ACTION FOR FORFEITURE UNDER THIS SECTION MAY BE JOINED WITH AN ALTERNATIVE ACTION FOR DAMAGES BROUGHT BY THE STATE TO RECOVER DAMAGES FOR THE VALUE OF FISH AND GAME OR PARTS OF THEM OR NESTS OR EGGS OF BIRDS TAKEN, TRANSPORTED OR POSSESSED CONTRARY TO THE PROVISIONS OF THIS TITLE OR A REGULATION PROMULGATED UNDER IT.

(D) IT IS NO DEFENSE THAT THE PERSON WHO HAD THE ITEM SPECIFIED IN (A) OF THIS SECTION IN POSSESSION AT THE TIME OF ITS USE AND SEIZURE HAS NOT BEEN CONVICTED OR ACQUITTED IN A CRIMINAL PROCEEDING RESULTING FROM OR ARISING OUT OF ITS USE.

(E) NO FORFEITURE MAY BE MADE OF AN ITEM SUBSEQUENTLY SOLD TO AN INNOCENT PURCHASER IN GOOD FAITH. THE BURDEN OF PROOF AS TO WHETHER THE PURCHASER PURCHASED THE ITEM INNOCENTLY AND IN GOOD FAITH SHALL BE ON THE PURCHASER.

(F) AN ITEM FORFEITED UNDER THIS SECTION SHALL BE DISPOSED OF AT THE DISCRETION OF THE DEPARTMENT.

STORY (SEC. 3 CH 124 SLA 1974)

01 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

17.30.110 DOCUMENT= 1 OF 1 PAGE = 1 OF 8

CHAPTER = 17.30

SECTION = 17.30.110

TITLE = 17

ADINGS TITLE 17.

FOOD AND DRUGS.

CHAPTER 30.

CONTROLLED SUBSTANCES.

ARTICLE 2.

ENFORCEMENT FORFEITURE AND REVIEW PROVISIONS.

TATION SEC. 17.30.110.

ON LINE

FORFEITURES.

BT

(A) THE FOLLOWING MAY BE FORFEITED TO THE STATE:

(1) A CONTROLLED SUBSTANCE WHICH HAS BEEN MANUFACTURED, DISTRIBUTED, DISPENSED, ACQUIRED, OR POSSESSED IN VIOLATION OF THIS CHAPTER OR AS 11.71,

(2) RAW MATERIALS, PRODUCTS, AND EQUIPMENT WHICH ARE USED OR INTENDED FOR USE IN MANUFACTURING, DISTRIBUTING, COMPOUNDING, PROCESSING, DELIVERING, IMPORTING, OR EXPORTING A CONTROLLED SUBSTANCE WHICH IS A FELONY UNDER THIS CHAPTER OR AS 11.71,

(3) PROPERTY WHICH IS USED OR INTENDED FOR USE AS A CONTAINER FOR PROPERTY DESCRIBED IN (1) OR (2) OF THIS SUBSECTION,

(4) A CONVEYANCE, INCLUDING BUT NOT LIMITED TO AIRCRAFT, VEHICLES OR VESSELS, WHICH HAS BEEN USED OR IS INTENDED FOR USE IN TRANSPORTING OR IN ANY MANNER IN

OR CONCEALMENT OF PROPERTY DESCRIBED IN (1) OR (2) OF THIS SUBSECTION IN VIOLATION OF A FELONY OFFENSE UNDER THIS CHAPTER OR AS 11.71; HOWEVER,

(A) A CONVEYANCE MAY NOT BE FORFEITED UNDER THIS PARAGRAPH IF THE OWNER OF THE CONVEYANCE ESTABLISHES, BY A PREPONDERANCE OF THE EVIDENCE, AT A HEARING BEFORE THE COURT AS THE TRIER OF FACT, THAT USE OF THE CONVEYANCE IN VIOLATION OF THIS CHAPTER OR AS 11.71 WAS COMMITTED BY ANOTHER PERSON AND THAT THE OWNER WAS NOT A CONSENTING PARTY NOR PRIVY TO THE VIOLATION;

(B) A FORFEITURE OF A CONVEYANCE ENCUMBERED BY A VALID SECURITY INTEREST AT THE TIME OF SEIZURE IS SUBJECT TO THE INTEREST OF THE SECURED PARTY IF THE SECURED PARTY ESTABLISHES, BY A PREPONDERANCE OF THE EVIDENCE, AT A HEARING BEFORE THE COURT AS THE TRIER OF FACT, THAT USE OF THE CONVEYANCE IN VIOLATION OF THIS CHAPTER OR AS 11.71 WAS COMMITTED BY ANOTHER PERSON AND THAT THE SECURED PARTY WAS NOT A CONSENTING PARTY NOR PRIVY TO THE VIOLATION;

(5) BOOKS, RECORDS, AND RESEARCH PRODUCTS AND MATERIALS, INCLUDING FORMULAS, MICROFILM, TAPES, AND DATA, WHICH ARE USED IN VIOLATION OF THIS CHAPTER OR AS 11.71;

(6) MONEY, SECURITIES, NEGOTIABLE INSTRUMENTS, OR OTHER THINGS OF VALUE USED IN FINANCIAL TRANSACTIONS DERIVED FROM ACTIVITY PROHIBITED BY THIS CHAPTER OR AS 11.71; AND

(7) A FIREARM WHICH IS VISIBLE, CARRIED DURING, OR USED IN FURTHERANCE OF A VIOLATION OF THIS CHAPTER OR AS 11.71.

(B) PROPERTY LISTED IN (A) OF THIS SECTION MAY BE FORFEITED

TO THE STATE EITHER UPON CONVICTION OF THE DEFENDANT OF A VIOLATION OF THIS CHAPTER OR AS 11.71, OR UPON JUDGMENT OF A COURT IN A SEPARATE CIVIL PROCEEDING IN REM. THE COURT MAY ORDER A FORFEITURE IN THE IN REM PROCEEDING IF IT FINDS THAT AN ITEM SPECIFIED IN (A) OF THIS SECTION WAS USED DURING OR IN AID OF A VIOLATION OF THIS CHAPTER OR AS 11.71.

(C) IT IS NOT A DEFENSE IN AN IN REM PROCEEDING BROUGHT UNDER THIS SECTION THAT A CRIMINAL PROCEEDING HAS RESULTED IN A CONVICTION OR CONVICTION OF A LESSER OFFENSE FOR A VIOLATION OF THIS CHAPTER OR AS 11.71.

(I) PROPERTY LISTED IN (A) OF THIS SECTION MAY BE SEIZED BY A PEACE OFFICER UPON AN ORDER ISSUED BY A COURT HAVING JURISDICTION OVER THE PROPERTY UPON A SHOWING OF PROBABLE CAUSE THAT THE PROPERTY MAY BE FORFEITED UNDER (A) OF THIS SECTION. SEIZURE WITHOUT A COURT ORDER MAY BE MADE IF

(1) THE SEIZURE IS INCIDENT TO A VALID ARREST OR A SEARCH UNDER A VALID SEARCH WARRANT,

(2) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE SUBJECT OF AN EARLIER JUDGMENT IN FAVOR OF THE STATE IN A CRIMINAL PROCEEDING OR CIVIL PROCEEDING IN REM UNDER THIS CHAPTER OR AS 11.71, OR

(3) THERE IS PROBABLE CAUSE THAT THE PROPERTY WAS USED, IS BEING USED, OR IS INTENDED FOR USE, IN VIOLATION OF THIS CHAPTER OR AS 11.71 AND THE PROPERTY IS EASILY MOVABLE. PROPERTY SEIZED UNDER THIS PARAGRAPH MAY NOT BE HELD FOR MORE THAN 48 HOURS WITHOUT A COURT ORDER OBTAINED TO CONTINUE ITS DETENTION.

(E) PROPERTY TAKEN OR DETAINED UNDER (D) OF THIS SECTION

SHALL BE HELD IN THE CUSTODY OF EITHER THE COMMISSIONER OF PUBLIC SAFETY OR A MUNICIPAL LAW ENFORCEMENT AGENCY AUTHORIZED BY THE COMMISSIONER OF PUBLIC SAFETY TO RETAIN CUSTODY OF PROPERTY LISTED IN (A) OF THIS SECTION SUBJECT ONLY TO THE ORDERS AND DECREES OF THE COURT HAVING JURISDICTION OVER ANY FORFEITURE PROCEEDINGS. IF PROPERTY IS SEIZED UNDER THIS CHAPTER, THE COMMISSIONER OF PUBLIC SAFETY OR AN AUTHORIZED MUNICIPAL LAW ENFORCEMENT AGENCY MAY

(1) PLACE THE PROPERTY UNDER SEAL,

(2) REMOVE THE PROPERTY TO A PLACE DESIGNATED BY THE COURT, OR

APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH LAW.  
(F) WITHIN 10 DAYS AFTER A SEIZURE UNDER THIS SECTION, THE COMMISSIONER OF PUBLIC SAFETY SHALL MAKE AN INVENTORY OF ANY PROPERTY SEIZED, INCLUDING CONTROLLED SUBSTANCES, AND SHALL APPRAISE THE VALUE OF ANY ITEMS SEIZED OTHER THAN CONTROLLED SUBSTANCES.

(G) WITHIN 20 DAYS AFTER A SEIZURE UNDER THIS SECTION, THE COMMISSIONER OF PUBLIC SAFETY SHALL, BY CERTIFIED MAIL, NOTIFY ANY PERSON KNOWN TO HAVE AN INTEREST IN AN ITEM WITH AN APPRAISED VALUE OF \$500 OR MORE, OR WHO IS ASCERTAINABLE FROM OFFICIAL REGISTRATION NUMBERS, LICENSES, OR OTHER STATE, FEDERAL OR MUNICIPAL NUMBERS ON THE ITEM, OF THE PENDING FORFEITURE ACTION. ADDITIONALLY, THE COMMISSIONER OF PUBLIC SAFETY SHALL PUBLISH NOTICE OF FORFEITURE ACTION OF AN ITEM VALUED AT \$500 OR MORE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE JUDICIAL DISTRICT IN WHICH THE SEIZURE WAS MADE, OR IF NO NEWSPAPER IS PUBLISHED IN

417.30.110 DOCUMENT# 1 OF 1 PAGE = 5 OF 8  
THAT JUDICIAL DISTRICT, IN A NEWSPAPER PUBLISHED IN THE STATE AND DISTRIBUTED IN THAT JUDICIAL DISTRICT. THE NOTICE SHALL BE PUBLISHED ONCE EACH WEEK DURING FOUR CONSECUTIVE CALENDAR WEEKS. THE REQUIREMENTS OF THIS SUBSECTION DO NOT APPLY TO THE FORFEITURE OF CONTROLLED SUBSTANCES WHICH HAVE BEEN MANUFACTURED, DISTRIBUTED, DISPENSED, OR POSSESSED IN VIOLATION OF THIS CHAPTER OR AS 11.71, REGARDLESS OF THEIR VALUE.

(H) UPON SERVICE OR PUBLICATION OF NOTICE OF COMMENCEMENT OF A FORFEITURE ACTION UNDER THIS SECTION, A PERSON CLAIMING INTEREST IN THE PROPERTY SHALL FILE WITHIN 30 DAYS AFTER THE SERVICE OR PUBLICATION, A NOTICE OF CLAIM SETTING OUT THE NATURE OF THE INTEREST, THE DATE IT WAS ACQUIRED, THE CONSIDERATION PAID, AND AN ANSWER TO THE STATE'S ALLEGATIONS. IF A CLAIM AND ANSWER IS NOT FILED WITHIN THE TIME SPECIFIED, THE PROPERTY DESCRIBED IN THE STATE'S ALLEGATION MUST BE ORDERED FORFEITED TO THE STATE WITHOUT FURTHER PROCEEDINGS OR SHOWINGS.

(I) QUESTIONS OF FACT OR LAW RAISED BY A NOTICE OF FORFEITURE ACTION AND ANSWER OF A CLAIMANT IN AN ACTION COMMENCED UNDER THIS SECTION MUST BE DETERMINED BY THE COURT SITTING WITHOUT A JURY. THIS PROCEEDING MAY BE HELD IN ADEYANCE UNTIL CONCLUSION OF ANY PENDING CRIMINAL CHARGES AGAINST THE CLAIMANT UNDER THIS CHAPTER OR AS 11.71.

(J) A CLAIMANT UNDER (H) OF THIS SECTION MAY AT ANY TIME PETITION FOR RELEASE OF A SEIZED ITEM AS FOLLOWS:

- (1) TO A COURT IN WHICH A WARRANT FOR SEIZURE HAS BEEN ISSUED,
- (2) TO A COURT IN WHICH A CRIMINAL OR CIVIL ACTION ALLEGING FORFEITURE OF THE ITEM HAS BEEN FILED; OR

417.30.110 DOCUMENT# 1 OF 1 PAGE = 6 OF 8  
(3) BEFORE AN ACTION IS FILED, OR IF NO SEIZURE WARRANT WAS ISSUED, TO A COURT IN THE JUDICIAL DISTRICT IN WHICH THE VIOLATION TOOK PLACE.

(K) AN ITEM MAY NOT BE RELEASED BY THE COURT UNDER (J) OF THIS SECTION UNLESS THE CLAIMANT GIVES ADEQUATE ASSURANCE THAT THE ITEM WILL REMAIN SUBJECT TO THE COURT'S JURISDICTION AND

- (1) THE COURT FINDS THAT THE RELEASE IS IN THE BEST INTERESTS OF THE STATE; OR
- (2) THE CLAIMANT PROVIDES A BOND OR OTHER VALID AND EQUIVALENT SECURITY EQUAL TO TWICE THE APPREISED VALUE OF THE ITEM.

(L) A CLAIMANT MAY PETITION THE COURT FOR SALE OF AN ITEM BEFORE FINAL DISPOSITION OF COURT PROCEEDINGS. THE COURT SHALL GRANT A PETITION FOR SALE UPON A FINDING THAT THE SALE IS IN THE BEST INTERESTS OF THE STATE AND THE PRESERVATION AND MAINTENANCE OF THE ITEM SEIZED. PROCEEDS FROM THE SALE PLUS INTEREST TO THE DATE OF FINAL DISPOSITION OF THE COURT PROCEEDINGS BECOME THE SUBJECT OF THE FORFEITURE ACTION.

(M) PROPERTY FORFEITED UNDER THIS SECTION OTHER THAN CONTROLLED SUBSTANCES SHALL BE DISPOSED OF BY THE COMMISSIONER OF ADMINISTRATION IN ACCORDANCE WITH APPLICABLE LAW. THE COMMISSIONER OF ADMINISTRATION MAY

- (1) DESTROY PROPERTY HARMFUL TO THE PUBLIC,
- (2) SELL THE PROPERTY AND USE THE PROCEEDS FOR PAYMENT OF ALL PROPER EXPENSES OF THE PROCEEDINGS FOR FORFEITURE AND SALE, INCLUDING EXPENSES OF STORAGE, TAXES, AND COURT

(3) TAKE CUSTODY OF THE PROPERTY AND AUTHORIZE ITS USE

17.39.110 DOCUMENT# 1 OF 1 PAGE = 7 OF 8

IN THE ENFORCEMENT OF THIS CHAPTER OR AS 11.71, OR TRANSFER IT TO ANOTHER AGENCY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE FOR A USE IN FURTHERANCE OF THE ADMINISTRATION OF JUSTICE;

(4) TAKE CUSTODY OF THE PROPERTY AND REMOVE IT FOR DISPOSITION IN ACCORDANCE WITH LAW; OR

(5) FORWARD IT TO THE DRUG ENFORCEMENT ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE FOR DISPOSITION.

(R) UPON A SHOWING THAT A CLAIMANT IS ENTITLED TO REMITTANCE IN ACCORDANCE WITH THIS SECTION, THE COURT SHALL ORDER THAT

(1) IF THE CLAIMANT IS ENTITLED TO THE ITEM, IT SHALL BE DELIVERED TO THE CLAIMANT IMMEDIATELY;

(2) IF THE CLAIMANT IS ENTITLED TO REMITTANCE OF SOME VALUE LESS THAN THE TOTAL VALUE OF THE ITEM, THE CLAIMANT IS ENTITLED, AT THE CLAIMANT'S CHOICE, TO RECEIVE EITHER THE VALUE OF THE CLAIMANT'S INTEREST OR, UPON RECEIPT OF PAYMENT OF THE DIFFERENCE IN VALUE BY THE CLAIMANT, THE ENTIRE ITEM.

(O) AN OFFENDER WHO USED AN ITEM SUBJECT TO REMISSION IN VIOLATION OF THIS CHAPTER OR AS 11.71 SHALL BE ASSESSED A FINE WHICH MAY NOT BE LESS THAN THE COST OF ANY LIEN PAYMENT OR REMITTANCE MADE BY THE STATE PLUS THE REASONABLE COSTS OF THE SEIZURE.

(P) A CONTROLLED SUBSTANCE MANUFACTURED, POSSESSED, TRANSFERRED, SOLD, OR OFFERED FOR SALE IN VIOLATION OF THIS CHAPTER OR AS 11.71 IS CONTRABAND AND MUST BE SEIZED AND SUMMARIY FORFEITED TO THE STATE. THE COMMISSIONER OF PUBLIC SAFETY OR THE COMMISSIONER'S DESIGNEE, INCLUDING A MUNICIPAL LAW ENFORCEMENT AGENCY AUTHORIZED UNDER (E) OF THIS SECTION TO RETAIN

17.39.110 DOCUMENT# 1 OF 1 PAGE = 8 OF 8

CUSTODY OF CONTROLLED SUBSTANCES, IS RESPONSIBLE FOR THE DISPOSAL OF CONTROLLED SUBSTANCES WHICH HAVE BEEN FORFEITED. THE CONTROLLED SUBSTANCES SHALL BE DISPOSED OF IN ACCORDANCE WITH PROCEDURES AND REQUIREMENTS PRESCRIBED BY THE COMMISSIONER.

(Q) PLANTS FROM WHICH CONTROLLED SUBSTANCES MAY BE DERIVED AND WHICH HAVE BEEN PLANTED OR CULTIVATED IN VIOLATION OF THIS CHAPTER OR AS 11.71, OR WHICH ARE GROWN IN THE WILD, MAY BE SEIZED AND SUMMARIY FORFEITED TO THE STATE.

STORY (SEC. 4 CH 45 SLA 1982)

804 \* END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

26.05.345 DOCUMENT# 47 OF 48 PAGE = 1 OF 1

CHAPTER = 26.05

SECTION = 26.05.345

TITLE = 26

ADINGS TITLE 26.

MILITARY AFFAIRS AND VETERANS.

CHAPTER 05.

MILITARY CODE OF ALASKA.

TATION SEC. 26.05.345.

70H LINE

CIVIL AIR PATROL.

AT THE ADJUTANT GENERAL SHALL MAKE THE NECESSARY ADMINISTRATIVE ARRANGEMENTS FOR MAINTAINING LIAISON BETWEEN THE STATE AND THE CIVIL AIR PATROL AND THE EXPENDITURE OF FUNDS APPROPRIATED TO THE DEPARTMENT FOR THE STATE CONTRIBUTION TOWARD THE SUPPORT OF THE AUTHORIZED ACTIVITIES OF THE ALASKA WING, CIVIL AIR PATROL, UNDER ITS CHARTER.

80Y (SEC. 3 CH 79 SLA 1965; EXECUTIVE ORDER NO. 33 (1965))

END OF DOCUMENT



ALASKA STATE LEGISLATURE

INTERIM OFFICE:  
P.O. BOX 81435  
FAIRBANKS, ALASKA 99708

IN SESSION  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4930/4941



CHAIRMAN  
1983 INTERIOR DELEGATION

MEMBER  
TRANSPORTATION  
HEALTH, EDUCATION AND SOCIAL SERVICES  
LABOR SUBCOMMITTEE  
JOINT OIL AND GAS  
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis  
House District 19

MEMORANDUM

*Sen. Bill*  
To: Sen. Bill Ray, Chairman Senate Judiciary Committee

From: Rep. Mike Davis

Date: May 3, 1983

Re: CSHB 195

Dear Senator Ray,

Enclosed is a set of the back-up material for the CS for House Bill No. 195 (Judiciary) which is presently in the Senate Judiciary Committee.

Sincerely,

*Mike Davis*  
Rep. Mike Davis

(c) A person who, either by himself or with another, wilfully deprives a member of the National Guard or Naval Militia of his employment or prevents his being employed by himself or another, or obstructs or annoys the member of the National Guard or Naval Militia or his employer in respect of his trade, business or employment, because the member of the National Guard or Naval Militia is a member, or in any way dissuades any person from enlisting in the National Guard or Naval Militia by threat or injury to him in respect of his employment, trade or business, if he so enlists, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$100.

(d) All matters relating to the organization, discipline and government of the National Guard or Naval Militia, not otherwise provided for by the laws of the United States, this chapter, or regulations issued by the president shall be governed by regulations issued by the adjutant general and approved by the governor, and the regulations when adopted, have the same force and effect as though enacted in this chapter. (§ 36 ch 150 SLA 1955; am §§ 18 — 20 ch 34 SLA 1973)

**Sec. 26.05.345. Civil Air Patrol.** The adjutant general shall make the necessary administrative arrangements for maintaining liaison between the state and the Civil Air Patrol and the expenditure of funds appropriated to the department for the state contribution toward the support of the authorized activities of the Alaska Wing, Civil Air Patrol, under its charter. (§ 3 ch 70 SLA 1965; Executive Order No. 33 (1968))

**Revisor's note.** — The following executive order, signed by Governor Walter J. Hickel, was transmitted to the legislature on January 23, 1968. It was not disapproved by the legislature during the 1968 session and therefore became law under the provisions of sec. 23, art. III of the Alaska Constitution and AS 24.30.130.

**"EXECUTIVE ORDER NO. 33.** Pursuant to the authority vested in me by Sec. 23, Art. III, Constitution of the State of Alaska, the State's responsibilities toward the Alaska Wing, Civil Air Patrol, as set forth in AS 44.33.110, are hereby transferred from the Department of Commerce to the Department of Military Affairs. The effective date of such transfer shall be July 1, 1968.

"Dated at Juneau, Alaska this 22nd day of January, 1963."

This section, except for the designation of the responsible official, formerly was AS 44.23.110.

**Editor's note.** — Chapter 70, SLA 1965, included the following: "Sec. 1. Purpose. The Civil Air Patrol is an auxiliary of the United States Air Force operating under charter from Congress, and it operates in all states and the District of Columbia and the Commonwealth of Puerto Rico. The Civil Air Patrol has as its purpose the organizing of public-spirited citizens in civil aviation into a volunteer semi-military organization to assist in civil defense efforts, train teen-age cadets in pre-flight instruction, conduct missing-aircraft search service, and assist in search and rescue missions, and special missions for state and federal agencies. It is the purpose of this Act to make formal provision for the administration of the financial support of the state's participation in the program of the Civil Air Patrol."

**Sec. 26.05.350. Short title.** This chapter may be cited as the Military Code of Alaska. (§ 1 ch 150 SLA 1955)

Title 27  
Mining

Title 28  
Motor Vehicles

Title 20  
Municipal Government

# ALASKA STATE LEGISLATURE

INTERIM OFFICE:  
P.O. BOX 81435  
FAIRBANKS, ALASKA 99708

IN SESSION:  
POUCH V  
JUNEAU, ALASKA 99811  
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CHAIRMAN  
1983 INTERIOR DELEGATION

MEMBER  
TRANSPORTATION  
HEALTH, EDUCATION AND SOCIAL SERVICES  
LABOR SUBCOMMITTEE  
JOINT OIL AND GAS  
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis  
House District 19

## MEMORANDUM

To: Rep. McBride, Rep. Abood, Rep. Hurlbert, Rep. Bussell  
Bob Head, Department of Administration  
Dick Rountree, Department of Military Affairs

From: Rep. Mike Davis

Date: April 8, 1983

Re: House Bill 195

Attached is a substitute version of House Bill 195 which will be brought up before the House Judiciary Committee on Friday, April 15. The purpose of this substitute is to further clarify the original legislative intent of HB 195.



# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

P. O. BOX 6188, ANNEX  
ANCHORAGE, ALASKA 99502

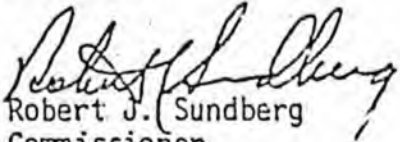
February 18, 1983

Representative Mike Davis  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Davis:

The Division of Fish and Wildlife Protection is the primary agency within the Department of Public Safety that becomes involved in the seizure and subsequent forfeiture of aircraft. Neither the Division nor I see any problem with HB 195.

Sincerely,

  
Robert J. Sundberg  
Commissioner

✓

MAR 2 1983

# STATE OF ALASKA

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

F. O. BOX 6188, ANNEX  
ANCHORAGE, ALASKA 99502

February 18, 1983

Representative John Ringstad  
Chairman, House Resources Committee  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Representative Ringstad:

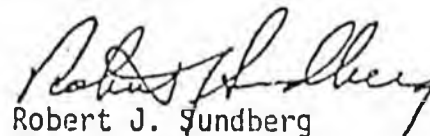
I would like to present the following position which the Division of Fish and Wildlife Protection, Department of Public Safety holds with regard to the subsequent House Bill under proposal:

HB 195 - Neutral

This Bill should be carefully researched to insure Alaska constitutional provisions and procedures are not by-passed in the transfer of State property.

The majority of aircraft forfeited to the State are in the cub class, which may not be the appropriate plane for civil air patrol. Most aircraft that have been forfeited to the State in the past have needed extensive repair in order to be airworthy. This would require facilities or funds for putting an aircraft in an airworthy condition. The State should not be held liable for the condition of the aircraft at the time of transfer of ownership.

Sincerely,



Robert J. Sundberg  
Commissioner

# Alaska State Legislature

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HOUSE MAJORITY WHIP

CHAIRMAN  
STATE AFFAIRS

MEMBER  
TRANSPORTATION  
LEGISLATIVE COUNCIL

Representative Mitch Abood  
HOUSE DISTRICT 11

## MEMORANDUM

TO: Representative John Ringstad, Co-Chairman  
Representative Richard Shultz, Co-Chairman  
House Resources Committee

FROM: Representative Mitch Abood *Mitch*

DATE: March 1, 1983

RE: HB 195  
"An Act permitting transfer of forfeited aircraft to the Alaska  
Wing, Civil Air Patrol"

The Civil Air Patrol is providing a great service to the public in its search and rescue efforts, and the transfer of confiscated aircraft to the Civil Air Patrol would tremendously benefit this outstanding operation.

The Civil Air Patrol provides emergency search and rescue services to those individuals who wind up in trouble in the vast outlying areas of Alaska. Because of the age of the aircraft and the great number of hours the CAP spends on search and rescue efforts, it is imperative that the aircraft and equipment used in service be replaced periodically to insure the utmost in safety of the operations. The CAP is currently replacing its aircraft with funds of their own, and the process is quite lengthy in their efforts to procure new aircraft from Outside.

It is with this in mind that I highly recommend the passage of HB 195, "An Act permitting transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol".

cc: Representative Mike Davis

HB 195 "An Act permitting transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol."

Analysis and Background

House Bill 195 would amend the statutes in two places to make it possible for the state to turn over aircraft, forfeited to the state in connection with crimes, to the Civil Air Patrol.

Section 1. addresses aircraft forfeited in fish and game violations, while Section 2. deals with aircraft forfeited in drug-related offenses.

Because CAP corporate rules require that any equipment donated to the CAP become property of the corporation, and may be disposed of as the directors see fit, it may be a concern of the state that equipment donated by the state should remain in the state. The CAP is a national organization, and its directors may place equipment wherever they determine its best use to be. This has evidently caused some consternation with the Department of Military Affairs regarding radio equipment; additionally, the CAP has apparently upset the federal government by selling 10 airplanes given to them by the feds.

Currently the department of Administration may dispose of an aircraft by either selling it, or by transferring it to a department of state government for official use. An example of this would be the transfer of several aircraft to fish and wildlife protection for their use in enforcing fishing and hunting regulations.

This avenue could be used to make the aircraft available to the CAP by transferring it to the Department of Military Affairs. However, according to Dick Roundtree of that department, a problem would arise in regard to volunteer, non-state employees using a piece of state-owned equipment. The liability of the state makes it increasingly unattractive to use this route, and Roundtree said it would be better to simply give the aircraft over to the CAP.

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violation of this chapter or rule or regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. If sold, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter, or rule or regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any. (§ 23 art I ch 94 SLA 1959)

A seizure is a prerequisite to forfeiture under the provisions of this section. *Rubino v. State*, Sup. Ct. Op. No. 215 (File No. 395), 391 P.2d 945 (1964).

Forfeiture acts upon the thing itself. — In case of forfeiture, the decree of the court acts upon the thing itself and binds the interest of all the world, whether any party actually appears or not. If it is condemned, the title of the property is completely changed, and the new title acquired by the forfeiture travels with the thing in all its future progress. *United States v. Pollastrine*, 8 Alas. 104 (1929).

It divests titles and liens. — A forfeiture necessarily divests every existing right, whether of title or lien or other interest, in the thing forfeited. There is no reason why it should not extinguish the right of a lienholder equally with that of the owner. It binds the interests of all the world. *United States v. Pollastrine*, 8 Alas. 104 (1929).

Section distinguishes between mandatory and discretionary forfeiture. — This section distinguishes between mandatory forfeiture of contraband (fish, game, birds) upon conviction, and discretionary forfeiture of paraphernalia (guns, traps, aircraft, etc.). *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

Not between criminal or civil forfeiture proceedings. — The distinction which the legislature sought to draw between contraband and paraphernalia, between mandatory and discretionary forfeiture, not between requiring criminal or civil forfeiture proceedings. *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

Forfeitures, even when civil in form, are basically criminal in nature. *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

"Order of the court" may refer to orders rendered following criminal conviction. — Since the "case" and "fine" referred to in this section concern criminal proceedings, it is reasonable to interpret an "order of the court" as likewise referring to orders rendered subsequent to a criminal conviction, as well as those following a separate civil action. *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

Valid forfeiture where defendant convicted under AS 16.05.920. — Where defendant was convicted under AS 16.05.920, which makes certain acts unlawful, in order to effect a valid forfeiture of defendant's aircraft, it was not necessary for the state to institute a separate civil in rem proceeding against the aircraft. *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

While forfeiture is a civil remedy unless otherwise provided by statute, this section, as it applied to a defendant who was convicted under AS 16.05.920, did so provide. *Graybill v. State*, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

For cases construing seizure and forfeiture under the provision of ACLA 1949, § 39-2-10, see *United States v. One Fish Trap*, 7 Alas. 215 (1924); *United States v. The Pacific*, 7 Alas. (1924); *United States v. One Floating Fish Trap*, 7 Alas. 334 (1925); *The M. & M.*, 8 Alas. 17 (1925).

Cited in *Wacek v. State*, Sup. Ct. Op. No. 1108 (File No. 2166), 530 P.2d 751 (1975).

Sec. 16.05.195. Forfeiture of equipment. (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title, or regulation promulgated under this title, and all fish and game or parts

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and game or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title, or regulation promulgated under it, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or a regulation promulgated under it.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported or possessed contrary to the provisions of this title or a regulation promulgated under it.

(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.

(e) No forfeiture may be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department. (§ 3 ch 124 SLA 1974)

This section and AS 17.12.130 distinguished from AS 11.45.040. — Both AS 17.12.130, the narcotics forfeiture statute, and this section, the fish and game forfeiture statute, define broadly the property subject to forfeiture to include "accessories" and "paraphernalia," respectively, used to violate the law. Furthermore, both of them provide optional

dispositions for forfeited property, unlike the gambling forfeiture statute, AS 11.45.040, which mandates destruction of property seized. *One Cocktail Glass v. State*, Sup. CL Op. No. 1437 (File No. 2729), 565 P.2d 1265 (1977).

Stated in *Graybill v. State*, Sup. CL Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976).

Sec. 16.05.200. Power to administer oaths. Each person designated in § 150 of this chapter may administer to or take from any person, an oath, affirmation, or affidavit when it is for use in a prosecution or proceeding under or in the enforcement of this chapter. (§ 24 art I ch 94 SLA 1959)

Sec. 16.05.210. Ineligibility for bounties. It is unlawful for an employee or special hunter of the department to receive or attempt to receive a bounty for the killing of a predator, or to transfer the scalp or other part of a predator to another person for the purpose of collecting a bounty. (§ 16 art I ch 94 SLA 1959)

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**Sec. 17.30.060. Records of registrants.** A person registered to manufacture, distribute, dispense, or conduct research with controlled substances under this chapter shall keep records and maintain inventories in conformance with the record keeping and inventory requirements of federal law and in conformance with additional regulations adopted by the board. (§ 4 ch 45 SLA 1982)

**Cross references.** — For penalty for furnishing false or fraudulent information in or omitting material information from records required to be kept under this chapter, see AS 11.71.040(a)(3). For penalty for failure to make, keep, or furnish records required by this chapter, see AS 11.71.050(a)(4).

**Sec. 17.30.070. Order forms; prescriptions.** (a) A controlled substance may be distributed by one registrant to another registrant only if the distribution is in accordance with federal requirements for order forms.

(b) A controlled substance may not be dispensed by a practitioner other than in accordance with federal requirements regarding prescriptions for controlled substances.

(c) If the classification of a controlled substance in a schedule set out in AS 11.71.140 — 11.71.190, or by a regulation adopted in accordance with AS 11.71.120(a), is different from its corresponding classification under federal law, the requirements of (a) and (b) of this section are determined by the classification of the substance under federal law. (§ 4 ch 45 SLA 1982)

**Cross references.** — For penalty for failure to make, keep, or furnish order forms required under this chapter, see AS 11.71.050(a)(4).

**Sec. 17.30.080. Unlawful administration, prescription and dispensation of controlled substances.** A controlled substance classified under federal law or in a schedule set out in AS 11.71.140 — 11.71.190 or by regulations adopted in accordance with AS 11.71.120(a) may not be administered, prescribed, dispensed, or distributed other than for a medical purpose. (§ 4 ch 45 SLA 1982)

← **Article 2. Enforcement Forfeiture and Review Provisions.** →

- Section**  
 100. Cooperative arrangements  
 110. Forfeitures  
 130. Judicial review

**Sec. 17.30.100. Cooperative arrangements.** (a) The commissioner of public safety shall cooperate with other state and federal agencies in the discharge of their responsibilities pertaining to illicit traffic in controlled substances and in suppressing the abuse of controlled substances. Under this section, the powers of the commissioner of public safety include but are not limited to the following:

sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

(m) Property forfeited under this section other than controlled substances shall be disposed of by the commissioner of administration in accordance with applicable law. The commissioner of administration may

- (1) destroy property harmful to the public;
- (2) sell the property and use the proceeds for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, custody, and court costs;
- (3) take custody of the property and authorize its use in the enforcement of this chapter or AS 11.71, or transfer it to another agency of the state or a political subdivision of the state for a use in furtherance of the administration of justice;
- (4) take custody of the property and remove it for disposition in accordance with law; or
- (5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition.

(n) Upon a showing that a claimant is entitled to remittance in accordance with this section, the court shall order that

- (1) if the claimant is entitled to the item, it shall be delivered to the claimant immediately;
- (2) if the claimant is entitled to remittance of some value less than the total value of the item, the claimant is entitled, at the claimant's choice, to receive either the value of the claimant's interest or, upon receipt of payment of the difference in value by the claimant, the entire item.

(o) An offender who used an item subject to remission in violation of this chapter or AS 11.71 shall be assessed a fine which may not be less than the cost of any lien payment or remittance made by the state plus the reasonable costs of the seizure.

(p) A controlled substance manufactured, possessed, transferred, sold, or offered for sale in violation of this chapter or AS 11.71 is contraband and must be seized and summarily forfeited to the state. The commissioner of public safety or the commissioner's designee, including a municipal law enforcement agency authorized under (e) of this section to retain custody of controlled substances, is responsible for the disposal of controlled substances which have been forfeited. The controlled substances shall be disposed of in accordance with procedures and requirements prescribed by the commissioner.

(q) Plants from which controlled substances may be derived and which have been planted or cultivated in violation of this chapter or AS 11.71, or which are grown in the wild, may be seized and summarily forfeited to the state. (§ 4 ch 45 SLA 1982)

Cross references. — For penalty for failure to furnish notification required under this chapter, see AS 11.71.050 (a)(4).

*New (G)  
would be  
inserted here*

# ALASKA STATE LEGISLATURE

INTERIM OFFICE  
P.O. BOX 81455  
FAIRBANKS, ALASKA 99708

IN SESSION  
POUCH V  
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CHAIRMAN  
1983 INTERIOR DELEGATION

MEMBER  
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HEALTH, EDUCATION AND SOCIAL SERVICES  
LABOR SUBCOMMITTEE  
JOINT OIL AND GAS  
RURAL EDUCATION ATTENDANCE AREAS

Representative Mike Davis  
House District 19

## Aircraft Forfeited by the Courts Since Statehood

9 Supercubs: 3 went to the Department of Public Safety  
2 went to the Department of Fish & Game  
2 are in storage pending a final decision  
1 was sold by bid several years ago  
1 was torn apart for parts

1 Cessna 185: went to the Department of Public Safety

1 Cessna 180: transferred to the University of Alaska for use in training  
after some parts had been removed

1 Cessna 170B: sold by bid several years ago

Three airplanes presently have a questionable status in that the  
planes have been seized but not forfeited. These airplanes are:

1 Supercub  
2 Cessna 185s

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill 195 Date on Bill: 2/14/83  
 Title: Transfer of Forfeited Aircraft to CAP  
 Sponsor: Davis, Hurlbert, and McBride  
 Requestor: Rep. Hurlbert

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			-0-	-0-	-0-	-0-		
Operating			-0-	-0-	-0-	-0-		
Total			-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No apparent fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard L. Rountree Phone: 465-4601  
 Division: Administrative Services Date: 2/16/83  
 Approved by Commissioner: Major General Edward G. Pagano Date: 2/16/83  
 Department: Military Affairs

Distribution:

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- Copy to Requestor

2/8/83

MAR. 2 1983

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 195 Date on Bill: 2/14/83  
Title: an act permitting transfer of forfeited aircraft to the Alaska wing, Civil Air Patr  
Sponsor: Davis, Hurlbert & McBride  
Requestor: HOUSE RESOURCES

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	0	0	0	0

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86
	0	0	0	0

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No fiscal impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Colonel Robert J. Stickles Phone: 269-5532  
Division: Fish & Wildlife Protection Date: Feb. 10, 1983

Approved by Commissioner: [Signature] Date: 2/26/83  
Department: PUBLIC SAFETY

5. Distribution:

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2/15/83



HR 195 TITLE & SPONSOR SUMMARY

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AMENDED TITLE:  
AN ACT PERMITTING TRANSFER OF FORFEITED AIRCRAFT TO THE  
ALASKA WING, CIVIL AIR PATROL

PRIME SPONSOR: DAVIS.

CO-SPONSORS: HURLBERT, MCBRIDE, ABOOD.

CURRENT STATUS: 3/04/83 IN (H) JUDICIARY

HR 195 HOUSE ACTION  
DATE SEQ PAGE

10:55 3/05/83 PAGE 2 OF 2

LEGISLATIVE ACTION

02/14/83 01 0246  
03/04/83 02 0399  
03/04/83 03 0399

FIRST READING -- COMMITTEE REPORTS  
RES -- DFC6  
RES CMTE F/NOTE EQUALS ZERO  
JUDICIARY  
RULES

\*\*\*\* \*\* \*\* \*\*\* \*\* \*

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS  
POUCH AF  
JUNEAU, ALASKA 99811-9974

PHONE: (907) 586-6181

May 18, 1983

Senate Judiciary Committee  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Chairman,

The Division of Elections has testified twice on a House measure before your committee today, HB 157, by Adams, an act to expand the right to petition for a local option election. Due to a conflict today in another committee, we offer these comments in lieu of formal testimony.

HB 157 would expand the definition of an established village to include those within boroughs and municipalities. The Division views this as a housekeeping measure that does address the problems experienced by some unincorporated villages within established boroughs to hold local option elections.

Our understanding from the office of the Attorney General is that legislative intent in this area clearly was to allow all such villages the petition and voting option under Title 4.

The Division has submitted a zero fiscal note on this legislation. If we can be of further assistance to your committee on this matter, please contact our office.

Sincerely,

*Christina*

for Mary Lou Meiners

Director