

SB

462

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-1818

Senate

M E M O R A N D U M

21 April 1988

TO: Representative Henry Springer
FROM: Senator Arliss Sturgulewski *AS*
RE: Senate Bill 462

As you know, Senate Bill 462, "An Act relating to seizure and forfeiture of property in cases involving controlled substances, imitation controlled substances, and alcoholic beverage control laws" has been referred to your committee. I respectfully request that you waive this bill from your committee.

This bill adds an administrative procedure to the current law that governs the disposition of property seized under a violation of the controlled substances act and the bootlegging prohibition. This procedure was taken from that used by the federal Drug Enforcement Agency and is to be used by the Department of Public Safety and by municipal law enforcement agencies.

Senate Bill 462 also allows municipal law enforcement agencies to conduct this procedure on property seized by them. Section 14 adds to AS 29.10.200 a home rule power allowing municipalities to adopt an ordinance authorizing the chief of police to conduct a summary administrative proceeding as outline in Titles 04 and 17.30. Section 15 outlines the municipal disposition of seized and forfeited property.

Senate Bill 462 is supported by the Department of Public Safety, the Anchorage Police Department Employees Association, the Alaska Peace Officers Association, the Alaska Chiefs of Police, and the FBI National Academy-Alaska Branch.

*next committee of referral
waive to Judiciary.*

*✓ ok 4/22/88.
in floor*

JW

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*Senate State Affairs
(p.10-13)*

2-29-88

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

Write in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

M E M O R A N D U M

18 February 1988

TO: Senator Rick Halford
Senator John Binkley
Co-Chairmen, Senate Finance Committee

FROM: Senator Arliss Sturgulewski *AS*

RE: Senate Bill 462

I appreciate your scheduling of Senate Bill 462 "An Act relating to seizure and forfeiture of property in cases involving controlled substances". Attached is a copy of the current Alaska statute and a sectional analysis of the bill.

This bill is designed to allow law enforcement agencies to administratively pursue forfeiture of property seized as a result of a violation of the controlled substances act.

Current state law allows seized property to be forfeited to the state only through a civil proceeding against the property itself in court. This bill adds an administrative procedure and outlines how it is to be conducted. This procedure is taken from that used by the federal Drug Enforcement Agency.

The Drug Report to the Alaska Legislature by the Alaska State Troopers showed that in the period from January 1, 1986 to June 30, 1987 almost \$1 million in seizures of non-drug items took place. I think you will agree that there is potential with this legislation to help us pay, through the proceeds of seized property, for some of the costs of our drug enforcement measures.

I feel this legislation strikes a balance between allowing our law enforcement agencies to perform their duties in a timely fashion and protecting the rights of property owners. Please call me or Melissa Fouse of my staff at 465-3818 if you have any questions.

SECTIONAL ANALYSIS

Committee Substitute for Senate Bill 462 (Judiciary):

"An Act relating to seizure and forfeiture of property in cases involving controlled substances."

Section 1: changes statute citation to reflect changes caused by this bill. Makes it clear that this applies to imitation controlled substances as well as controlled substances.

Section 2: Provides that the listed items subject to forfeiture may be forfeited to a municipality as well as to the state.

Adds real property to the list of items eligible for seizure. Provides that if the owner can establish that the owner was neither a consenting party nor privy to the violation then the property may not be forfeited. Makes the same exception for a party with a valid security interest.

Expands scope of financial instruments subject to seizure.

Section 3: Adds summary administrative procedure by the state or by a municipality to the list of those proceedings resulting in forfeiture. Provides that any forfeiture proceeding must be commenced within 20 days after the property is seized or the property must be released unless the forfeiture is to be pursued as part of a criminal prosecution. In that instance the property may be retained until the conclusion of the criminal proceeding or two years, whichever occurs first.

Changes reference to the court having jurisdiction over forfeiture proceedings to procedures set out in the chapter. Adds chief of police of a municipality to section requiring inventory and appraisal within 10 days.

Section 4: Adds municipalities to the section regarding procedures for seizure of property. Clarifies that the value of items seized shall be estimated rather than appraised.

Section 5: Sets out the summary administrative procedure to be followed by the custodian of the seized property.

(a) Limits value of seized property that can be seized administratively to \$100,000 (unless it is a conveyance),

(1) requires notice to be sent to persons having an interest in the property,

(2) requires that notice be published in a newspaper for three weeks and sets out what must be contained in the published notice,

(b) requires a person claiming the property to respond within 20 days and also submit a bond,

(c) sets out the amount and type of the bond to be submitted,

(d) provides that if the bond is satisfactory, the administrative proceeding shall be terminated and within 20 days the civil proceeding against the property shall be commenced. Provides that if the bond is not satisfactory, a reasonable time must be allowed for corrections.

(e) makes it clear that the filing of a bond does not entitle the claimant to the property.

(f) if the property is not claimed, the custodian of the property shall declare the property forfeited and notify the custodian of the property.

Section 6: sets out notice requirements for circumstances under which the forfeiture proceeding is not done administratively, such as going to court.

Section 7: adds municipality to clarify that this section applies to municipalities as well as the state.

Section 8: clarifies that this section on disposal of property applies to property forfeited to the state. Clarifies that proceeds from sale of forfeited property goes to the state general fund after expenses are paid.

Section 9: deletes requirement that a municipal law enforcement agency must be authorized by the commissioner of public safety to disposal of controlled substances. This is a conforming change to section 3 of the bill.

Section 9: adds to definitions section.

Section 10: adds new section 29.35.135 to list of home rule limitations in Title 29.

Section 11: adds new section to Title 29 allowing municipalities to adopt an ordinance authorizing the chief of police to conduct a summary administrative forfeiture proceeding.

FROM SENATOR STURGULEWSKI
08 April 1988

Seizure

- 10 days

MORE THAN \$100,000

Civil
Court
proceeding

Inventory & Appraisal

Less than \$100,000
OR a compromise

Summary
Administrative Proceeding

Notice
to
Persons

Parties
and notice in
Paper 142
WK
FOR 3 WKS

20 days

Response from
interested parties
with bond and
Sureties

NO response

TO COURT

Declared Forfeit

SP 462

Sturgulewski
4/12/88

Anchorage

Clerk V

PERSONAL SERVICES - 100

Base Salary (Range 11/A)	\$23,460	
Benefits	<u>8,211</u>	
TOTAL PERSONAL SERVICES		\$31,671

CONTRACTUAL - 300

Terminal Hook-up Fees	\$ 850	
Telephone/Postage, \$85 per month x 12	1,020	
Maintenance Agreement on Computer	175	
Professional Services (Appraisal Fees/ Public Notices)	<u>3,000</u>	
TOTAL CONTRACTUAL		5,045

SUPPLIES AND MATERIALS - 400

Forms	1,000	
Stationary, copy machine paper, etc.	<u>1,000</u>	
TOTAL SUPPLIES AND MATERIALS		2,000

EQUIPMENT - 500 (FY 89 only)

Desk	576	
Chair	223	
Microcomputer - Compaq 286	<u>6,850</u>	
TOTAL EQUIPMENT		<u>7,649</u>

TOTAL COST		\$46,365
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CSSB 462 (Jud)
Fiscal Note Analysis
Department of Public Safety

This legislation establishes a "summary administrative forfeiture procedure" that would allow the commissioner of the Department of Public Safety to summarily order the forfeiture of property used in drug law violations if the forfeiture action is not contested. Under this new scheme, the department would be required to estimate the value of seized property, notify property owners of the department's intent to forfeit the items, arrange to publish notice of the proposed forfeiture action in newspapers in the area, and review claims and bonds filed by persons claiming the property. To properly perform these tasks the services of a Clerk V will be required, located in Anchorage.

Assumptions made in the preparation of this fiscal note include that the bill's effective date would be July 1, 1988, that equipment will be needed in the first year only, and that no inflation is projected.

It is impossible to know at this point how many offenders will choose not to contest the summary administrative forfeiture proceedings, so it is impossible to estimate the amount of revenue that will result from the new procedure. We believe that most property that will be forfeited under the administrative scheme will be the same type of property on which forfeiture is now being sought, through criminal conviction or civil "in rem" forfeiture actions. For these reasons the fiscal note indicates a zero revenue impact.

FISCAL NOTE

REQUEST

Revision Date: 3/25/88
Title: "An Act relating to seizure and forfeiture . . ."
Sponsor: Sen. Sturgulewski
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Criminal Investigation Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES		31.7	31.7	31.7	31.7	31.7
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		5.0	5.0	5.0	5.0	5.0
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		7.6				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		46.3	38.7	38.7	38.7	38.7

CAPITAL						
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REVENUE		-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS		46.3	38.7	38.7	38.7	38.7
FEDERAL FUNDS						
OTHER						
TOTAL		46.3	38.7	38.7	38.7	38.7

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

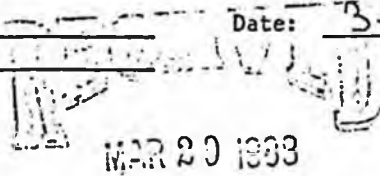
Prepared by: Joseph Reeves, Program Budget Analyst
Division: Administrative Services

Phone: 465-3223
Date: 3/25/88

Approved by Commissioner: Arthur English
Agency: Public Safety

Date: 3-25-88

Distribution: (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



LEGISLATIVE FINANCE

A/B

201102

1.	POSITION TITLE Clerk V				RANGE/STEP 11/A	BARG. UNIT GCU	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12.0	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 7-11	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This Clerk V would be responsible for oversight of the administrative forfeiture program. These duties would include:</p> <ul style="list-style-type: none"> - Arranging for a value estimate of the property seized. - Providing notice of administrative and "in rem" forfeiture proceedings to persons who may have an interest in the property. - Publishing notices in appropriate newspapers for administrative and "in rem" forfeiture proceedings. - Determining if the claim and bonds filed in administrative proceedings are "proper" and "satisfactory". - Ensuring that disposal of forfeited assets is in compliance with statutory requirements. - Providing guidelines to law enforcement officers to assure that seizures of property are made properly. 					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		23,460							
6.	Benefits		8,211							
7.	Overtime									
8.										
9.	TOTAL PERSONAL SERVICES		01	31.7						
10.	Travel		02	-0-						
11.	Contractual		03	5.0						
12.	Commodities		04	2.0						
13.	Equipment		05	7.6						
14.	Other									
15.	TOTAL COST			46.3						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		46.3						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR B&M USE ONLY									
	KEY NUMBER - - - - -									

REQUEST FOR
NEW POSITION

AGENCY Department of Public Safety

BRU Alaska State Troopers

COMPONENT Criminal Investigation Bureau

FY 89

Page 1 of 1
Revised Date

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept of Public Safety
 Title: Seizure & forfeiture of property DRU: Alaska State Troopers
in alcohol & controlled substance cases
 Sponsor: Senator Sturgulewski Components: Criminal Investigation
 Requestor: Senate Finance Committee Bureau

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		28.5	28.5	28.5	28.5	28.5
TRAVEL						
CONTRACTUAL		4.5	4.0	4.0	4.0	4.0
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		2.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		37.0	34.5	34.5	34.5	34.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		37.0	34.5	34.5	34.5	34.5
FEDERAL FUNDS						
OTHER						
TOTAL		37.0	34.5	34.0	34.5	34.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

It is expected that funding for this program in subsequent years will be supported by program receipts.

Prepared by: *Rick Halford* Phone: 465-3753
 Division: Senator Rick Halford, Co-chairman Date: April 12, 1988
Senate Finance Committee
 Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Anchorage

Clerk IV - Full Time

PERSONAL SERVICES - 100

Base Salary (Range 9/A) and Benefits		\$28.5
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CONTRACTUAL - 300

Terminal Hook-up Fees	\$ 850	
Telephone/Postage, \$85/mo. x 12	1,020	
Maintenance Agreement, Computer Professional Services (Appraisal Fees/Public Notices)	175	
	<u>2,500</u>	
TOTAL CONTRACTUAL		\$ 4.5

SUPPLIES AND MATERIALS - 400

Forms	1,000	
Stationary, copy machine paper, etc.	<u>1,000</u>	
TOTAL SUPPLIES AND MATERIALS		\$ 2.0

EQUIPMENT - 500 (FY 89 only)

Microcomputer		<u>\$ 2.0</u>
TOTAL COST		\$37.0

292

111 CSSB 462 (FIN)

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB 462 (Fin)
PUBLISH DATE: SENATE 4/12/88

FISCAL NOTE

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Revision Date: _____ Agency Affected: Dept of Public Safety
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in alcohol & controlled substance cases
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Requestor: Senate Finance Committee Bureau

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PERSONAL SERVICES		28.5	28.5	28.5	28.5	28.5
TRAVEL						
CONTRACTUAL		4.5	4.0	4.0	4.0	4.0
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT		2.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		37.0	34.5	34.5	34.5	34.5

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		37.0	34.5	34.5	34.5	34.5
FEDERAL FUNDS						
OTHER						
TOTAL		37.0	34.5	34.0	34.5	34.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

It is expected that funding for this program in subsequent years will be supported by program receipts.

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Division: Senator Rick Halford, Co-chairman Date: April 12, 1988
Senate Finance Committee
Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Anchorage

Clerk IV - Full Time

PERSONAL SERVICES - 100

Base Salary (Range 9/A)
and Benefits

\$28.5

CONTRACTUAL - 300

Terminal Hook-up Fees	\$ 850	
Telephone/Postage, \$85/mo. x 12	1,020	
Maintenance Agreement, Computer	175	
Professional Services (Appraisal Fees/Public Notices)	<u>2,500</u>	
TOTAL CONTRACTUAL		\$ 4.5

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Forms	1,000	
Stationary, copy machine paper, etc.	<u>1,000</u>	
TOTAL SUPPLIES AND MATERIALS		\$ 2.0

EQUIPMENT - 500 (FY 89 only)

Microcomputer		<u>\$ 2.0</u>
TOTAL COST		\$37.0