

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSSB 460, SB 452 144

CSSB

460

HOUSE COMMITTEE REPORT

(11)

Date referred: 4/18/88

FURTHER REFERRALS:

DATE: 4-28-88

The Finance Committee has considered CSSB 460(SA)

"An Act relating to the costs of administering state contracts."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) _____ a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note
- zero with analysis same as previous zero fiscal note published 3/15/88 SENATE

SIGNING DO PASS:

Adams [Signature]
 Pouchot [Signature]
 Wallis [Signature]
 Frank [Signature]
 Larson [Signature]
 Boyer [Signature]
 Davis [Signature]
 Rieger [Signature]

SIGNING OTHER RECOMMENDATIONS:

Gall [Signature]
 Brown [Signature]

[Signature]
Chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: SB 460 Agency Affected: Administration
 Title: An Act relating to costs of BRU: General Services & Supply
administering state contracts
 Sponsor: Faiks Components: Purchasing
 Requestor: Senate State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This zero fiscal note is based on the belief that the fiscal impact of the bill on bids issued by Department of Administration will be minimal.

Prepared By: Robert J. Link *Robert J. Link*
 Division: General Services & Supply

Phone: 465-2250
 Date: 02/26/88

Approved by Commissioner: John M. Andrews *John M. Andrews*
 Agency: Department of Administration

Date: 2/29/88

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

Original sponsor: Faiks

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 460 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the costs of administering state
7 contracts."

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

9 * Section 1. FINDINGS. The legislature finds that different bids for a
10 contract that is primarily for supplies can require significantly different
11 state costs for the administration of the contract. The legislature also
12 finds that if significant administrative costs would be required due to the
13 nature of a particular bid, the costs should be added to or included in the
14 bid amount before the low bidder is determined.

15 * Sec. 2. AS 36.30 is amended by adding a new section to read:

16 Sec. 36.30.165. CONSIDERATION OF ADMINISTRATION COSTS. After
17 the opening of the bids for a contract that is primarily for supplies,
18 but before the determination of the successful bidder under
19 AS 36.30.170, the procurement officer shall consider the significant
20 administrative costs that would be incurred by the state to administer
21 the contract under the bid. In this section, "administrative costs"
22 means the additional costs that result from the geographical location
23 of the bidder or the bidder's source of supplies, including costs for
24 transportation, communications, per diem, and state employee wages.

POSITION PAPER
Bill CS SB 460 (SA)

The bill requires the procurement officer to consider significant administrative costs before the award of a bid which is primarily for supplies. Administrative costs are defined as additional costs that result from the geographic location of the bidder or the bidders source of supply, and includes transportation, communications, per diem, and State wages.

The impact on the Department of Administration will be for procurement officers to consider significant administrative costs when preparing the Invitations to Bid or evaluating responses to an Invitation to Bid.

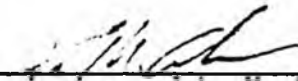
The Department of Administration is neutral on this bill.



Robert J. Link, Director
Division of General Services & Supply

4/13/88

Date



Commissioner John M. Andrews
Department of Administration

4/14/88

Date



Alaska State Legislature

SENATE

Office of the President

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3755

MEMORANDUM

April 17, 1988

TO: Representative Al Adams, Chairman
House Finance Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: CSSB 460 (STA) "An Act relating to the costs of
administering state contracts."

CSSB 460 (STA) has been referred to the House Finance Committee for consideration. This bill amends the State Procurement Code to address a problem which has affected several resident businesses.

The state enters into many contracts for supplies. The problem is that there may be greater costs associated with administering a contract with a supplier who is located outside the state than with a supplier who is located inside the state. For example, in order to administer a recent out-of-state contract, a state employee had to travel to the supplier's factory five times, incurring costs for air fare and per diem which were not taken into account when the bid was accepted. If these costs had been anticipated and added to the bid amount, the bid would have gone to a local business.

This bill finds that different bids for a contract that is primarily for supplies can require significantly different administrative costs. It also finds that significant costs should be added to or included in the bid amount before a low bidder is determined.

To accomplish this, the bill amends AS 36.30 to instruct procurement officers to consider the significant administrative costs that would be incurred by the state to administer a contract under a particular bid. This could be done by including the anticipated administrative costs in the bid itself, or by adding them onto a bid once it is received

"Administrative costs" are the additional costs that result from the geographical location of the bidder or the bidder's

source of supplies, including costs for transportation, communications, per diem and state employee wages.

Please contact my office if you have any questions or comments.

Thank you.

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 460

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the costs of administering state
7 contracts."

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

9 * Section 1. FINDINGS. The legislature finds that different bids for a
10 contract that is primarily for supplies can require significantly different
11 state costs for the administration of the contract. The legislature also
12 finds that if significant administrative costs would be required due to the
13 nature of a particular bid, the costs should be added to the bid amount
14 before the low bidder is determined.

15 * Sec. 2. AS 36.30 is amended by adding a new section to read:

16 Sec. 36.30.165. INCLUSION OF ADMINISTRATION COSTS. After the
17 opening of the bids for a contract that is primarily for supplies, but
18 before the determination of the successful bidder under AS 36.30.170,
19 the procurement officer shall add to the amount of each bid the sig-
20 nificant costs, including transportation and per diem costs, that
21 would be incurred by the state to administer the contract under the
22 bid. The resulting figure is the amount of the bid.

SB

462

SENATE COMMITTEE REPORT

FURTHER

3/30/88

DATE TURNED INTO OFFICE 4/12/88

Mr. President:

FINANCE

Committee considered SB 462

seizure and forfeiture of property in cases involving controlled substances

and recommended

replace with CS SB 462 (Finance) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures: J. Anderson, Paul Finch, Mike Vel, and others]

Rich Halford - do pass
Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept of Public Safety
 Title: Seizure & forfeiture of property in alcohol & controlled substance cases BRU: Alaska State Troopers
 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

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)

2,500

TOTAL CONTRACTUAL

\$ 4.5

SUPPLIES AND MATERIALS - 400

Forms

1,000

Stationary, copy machine
paper, etc.

1,000

TOTAL SUPPLIES AND MATERIALS

\$ 2.0

EQUIPMENT - 500 (FY 89 only)

Microcomputer

\$ 2.0

TOTAL COST

\$37.0

Original sponsors: Sturgulewski, Uehling,
Fischer and Rodey

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 462 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances, imita-
8 tion controlled substances, and alcoholic beverage
9 control laws."

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

11 * Section 1. AS 04.16.220(a) is amended to read:

12 (a) The following are subject to forfeiture to the state or a
13 municipality:

14 (1) alcoholic beverages manufactured, sold, offered for
15 sale or possessed for sale, bartered, or exchanged for goods and
16 services in this state in violation of AS 04.11.010; alcoholic bever-
17 ages possessed, stocked, warehoused, or otherwise stored in violation
18 of AS 04.21.060; alcoholic beverages sold or offered for sale in an
19 area where the results of a local option election have, under AS 04.-
20 11.490 - 04.11.500, prohibited the possession of alcoholic beverages
21 or prohibited the board from issuing, renewing, or transferring one or
22 more licenses or permits under this title in the area; alcoholic
23 beverages transported into the state and sold to persons not licensed
24 under this chapter in violation of AS 04.16.170(b);

25 (2) materials and equipment used in the manufacture, sale,
26 offering for sale, possession for sale, barter, or exchange of alco-
27 holic beverages for goods and services in this state in violation of
28 AS 04.11.010; materials and equipment used in the stocking, warehous-
29 ing, or storage of alcoholic beverages in violation of AS 04.21.060;

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

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

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

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

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

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

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

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

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

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

1 AS 04.11.490 - 04.11.500;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Sec. 04.16.235. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

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

if the seized property is an aircraft, vehicle, or vessel, the official who has custody of seized property may commence a summary administrative forfeiture proceeding by giving actual notice of the proceeding to persons who have a known or ascertainable interest in the property and by publishing a notice of the proceeding in a newspaper as required under AS 04.16.225. The notice must

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

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

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

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

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

(d) When the claim and bond are received, the official shall determine if the claim and bond are in proper form and the sureties are satisfactory. If the claim and bond are satisfactory, the official shall terminate the summary administrative forfeiture proceeding

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

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

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

16 (g) In this section

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

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

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

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

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

9 Sec. 04.16.245. DEFENSES TO FORFEITURE. It is not a defense in
10 an in rem forfeiture proceeding brought under AS 04.16.230(3) that a
11 criminal proceeding is pending or has resulted in conviction or ac-
12 quittal of a person charged with violating AS 04.11.070, 04.11.496(b),
13 AS 04.21.060, or an ordinance adopted under AS 04.11.490 - 04.11.500.

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

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

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

1 agency of a municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (C) proceeds derived directly or indirectly from a

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

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

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

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

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

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

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

29 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) place the property under seal;

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

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

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

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

11 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

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

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

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

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

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

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

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

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

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

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

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

1 not entitle the claimant to possession of the property.

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

6 (g) In this section

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

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

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

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

1 calendar weeks. The requirements of this subsection do not apply to
2 (1) a civil in rem proceeding commenced after a summary
3 administrative forfeiture proceeding is terminated upon the timely and
4 satisfactory filing of a claim and bond under AS 17.30.115(d); or
5 (2) the forfeiture of controlled substances which have been
6 manufactured, distributed, dispensed, or possessed in violation of
7 this chapter or AS 11.71, regardless of their value.

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

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

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

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

23 (1) destroy property harmful to the public;

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

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

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

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

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

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

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

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

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

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

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

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

1 police;

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

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

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

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

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

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

18 (1) destroy property harmful to the public;

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

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

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

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

1 * Sec. 16. AS 04.16.220(c), 04.16.220(d), 04.16.220(e), 04.16.220(f),
2 04.16.220(g), and 04.16.220(h) are repealed.
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STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 462 (Fin)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Dept. of Public Safety
Title: Seizure and forfeiture of BRU: Alaska State Troopers
Property in controlled substance cases
Sponsor: Senator Sturgulewski Components: Criminal Investigation
Requestor: Senate Finance Bureau _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		15.9	15.9	15.9	15.9	15.9
TRAVEL		-0-	-0-	-0-	-0-	-0-
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		24.4	21.9	21.9	21.9	21.9

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

GENERAL FUND		24.4	21.9	21.9	21.9	21.9
FEDERAL FUNDS						
OTHER						
TOTAL		24.4	21.9	21.9	21.9	21.9

POSITIONS:

FULL-TIME						
PART-TIME		1	1	1	1	1
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: _____ Phone: 465-3753
Division: Senator Rick Halford, Co-chairman Date: April 11, 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 V - Part Time

PERSONAL SERVICES - 100

Base Salary (Range 11/A)	\$11,800	
Benefits	<u>4,100</u>	
TOTAL PERSONAL SERVICES		\$15.9

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

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>
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TOTAL COST		\$24.4
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FISCAL NOTE

REQUEST

Revision Date: 3/25/88 Agency Affected: Public Safety
 Title: "An Act relating to seizure and forfeiture . . ." BRU: Alaska State Troopers
 Sponsor: Sen. Sturgulewski Components: Criminal Investigation
 Requestor: Senate Judiciary 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

Date: 3-25-88

Agency: Public Safety

Distribution: (by preparer):

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

Handwritten initials and stamp

MAR 20 1988

LEGISLATIVE FINANCE

Reduced by JFC 4/12/88

A/B

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.

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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1.	POSITION TITLE Clerk V				RANGE/STEP 11/A	BARG. UNIT CCU	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

Page 1 of 1
 Revised Date _____

FY 89

FISCAL NOTE

REQUEST

Revision Date: _____
Title: "An Act relating to seizure and
forfeiture of property . . ."
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		71.7	71.7	71.7	71.7	71.7
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		4.6	4.6	4.6	4.6	4.6
SUPPLIES		4.0	4.0	4.0	4.0	4.0
EQUIPMENT		9.5				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		89.8	80.3	80.3	80.3	80.3

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

GENERAL FUNDS		89.8	80.3	80.3	80.3	80.3
FEDERAL FUNDS						
OTHER						
TOTAL		89.8	80.3	80.3	80.3	80.3

POSITIONS:

FULL-TIME		2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 3/16/88

Approved by Commissioner: [Signature]
Agency: Public Safety

Date: 3-17-88

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

MAR 17 1988
LEGISLATIVE FINANCE

SB 462
Fiscal Note Analysis

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 an Administrative Assistant II and a Clerk Typist III will be required. Both positions will be 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. For this reason the fiscal note indicates a zero revenue impact.

	<u>Admin. Ass't II</u>	<u>Clerk Typist III</u>	<u>Total</u>
Personal Services	42.8	28.9	71.7
Contractual	3.4	1.2	4.6
Supplies	2.0	2.0	4.0
Equipment	<u>1.8</u>	<u>7.7</u>	<u>9.5</u>
Total	50.0	39.8	89.8

Anchorage

Administrative Assistant II

PERSONAL SERVICES - 100

Base Salary (Range 14/A)	\$29.2	
Overtime	.8	
SUB TOTAL	<u>\$30.0</u>	
Benefits	12.8	
TOTAL PERSONAL SERVICES		\$42.8

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	\$ 1.0	
Advertising 200x12	<u>2.4</u>	
TOTAL CONTRACTUAL		3.4

SUPPLIES AND MATERIALS - 400

Forms	\$ 1.0	
Stationary, copy machine paper, etc.	<u>1.0</u>	
TOTAL SUPPLIES AND MATERIALS		2.0

EQUIPMENT - 500

File Cabinet	\$.3	
Desk	.6	
Chair (3)	.7	
Book Case	<u>.2</u>	
TOTAL EQUIPMENT		<u>1.8</u>

TOTAL COST		\$50.0
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Anchorage

Clerk Typist III

PERSONAL SERVICES - 100

Base Salary (Range 8/A)	\$19.6	
Overtime (60 hours)	.9	
SUB TOTAL	<u>\$20.5</u>	
Benefits	8.4	
TOTAL PERSONAL SERVICES		\$28.9

CONTRACTUAL - 300

Telephone/Postage, \$85 per month x 12	1.0	
Maintenance Agreement on Computer	.2	
TOTAL CONTRACTUAL	<u>1.2</u>	1.2

SUPPLIES AND MATERIALS - 400

Forms	1.0	
Stationary, copy machine paper, etc.	1.0	
TOTAL SUPPLIES AND MATERIALS	<u>2.0</u>	2.0

EQUIPMENT - 500

Desk	.6	
Chair	.2	
Microcomputer - Compaq 286	6.9	
TOTAL EQUIPMENT	<u>7.7</u>	7.7
TOTAL COST		\$39.8

1.	POSITION TITLE Administrative Assistant II				RANGE/STEP 14/A	BARG. UNIT CGU	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 administrative assistant 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 both administrative and in rem proceedings. - Determining if the claim and bonds filed in administrative proceedings are "proper" and "satisfactory". <p>This position will supervise a Clerk Typist III that will provide clerical support for all forfeiture related activities.</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		29.2							
6.	Benefits		12.8							
7.	Overtime		.8							
8.										
9.	TOTAL PERSONAL SERVICES	01	42.8							
10.	Travel	02	-0-							
11.	Contractual	03	3.4							
12.	Commodities	04	2.0							
13.	Equipment	05	1.8							
14.	Other									
15.	TOTAL COST		50.0							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			50.0					
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 2

Revised Date

Seizure

- 10 days

MORE THAN \$100,000

CIVIL COURT PROCEEDING

Inventory & Appraisal

LESS THAN \$100,000 OR A CONFESSION

Summary Administrative Proceeding

Notice to Person

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

SPB 462

Sturgulewski
4/12/88

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

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

Senate

MEMORANDUM

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

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).

Editor's notes. — AS 11.71.120(a), referred to in subsection (c), does not

authorize adoption of regulations classifying controlled substances. AS 11.71.120(a) does, however, authorize recommendations for legislation to classify controlled substances.

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)

Editor's notes. — See editor's note to AS 17.30.070.

Article 2. Enforcement Forfeiture and Review Provisions.

Section

- 100. Cooperative arrangements
- 110. Items subject to forfeiture
- 112. Proceedings resulting in forfeiture
- 114. Seizure and custody of property
- 116. Procedure for forfeiture action
- 118. Petition for release of seized items

Section

- 120. Petition for sale of seized item
- 122. State disposal of forfeited property
- 124. Remittance to claimant
- 126. Forfeiture of controlled substances
- 130. Judicial review

Collateral references. — 25 Am. Jur. 2d, Drugs, Narcotics, and Poisons, §§ 27, 40 et seq.

See Supplement

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:

- (1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;
- (2) coordinating training programs pertaining to controlled substances at both local and state levels; and

(3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.36.155. (§ 4 ch 45 SLA 1982)

Sec. 17.30.110. Items subject to forfeiture. 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 section;

(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 facilitating the transportation, sale, receipt, possession, or concealment of property described in (1) or (2) of this section 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 neither 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 neither 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. (§ 4 ch 45 SLA 1982)

See Supplement

Revisor's notes. — AS 17.30.110(b) —
(q) were renumbered as AS 17.30.112 —
17.30.126 in 1983.

NOTES TO DECISIONS

Former forfeiture statute construed. 1265 (1977), decided under former AS
— See *One Cocktail Glass v. State*, Sup. 17.12.130.
Ct. Op. No. 1437 (File No. 2729), 565 P.2d

Collateral references. — Forfeiture of personal property used in illegal manufacture, processing, or sale of controlled substances under § 511 of Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 USCS § 881), 59 ALR Fed. 765.

Sec. 17.30.112. Proceedings resulting in forfeiture. (a) Property listed in AS 17.30.110 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 AS 17.30.110 was used during or in aid of a violation of this chapter or AS 11.71.

(b) 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. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(b) and (c). Renumbered in 1983.

Sec. 17.30.114. Seizure and custody of property. (a) Property listed in AS 17.30.110 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 AS 17.30.110. 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.

(b) Property taken or detained under (a) of this section shall be held in the custody of either the commissioner of public safety or a munic-

ipal law enforcement agency authorized by the commissioner of public safety to retain custody of property listed in AS 17.30.110 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
- (3) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(c) Within 10 days after a seizure under AS 17.30.110 — 17.30.126, 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. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(d) — (f). Renumbered in 1983.

Sec. 17.30.116. Procedure for forfeiture action. (a) Within 20 days after a seizure under AS 17.30.110 — 17.30.126, 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 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.

(b) 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.

(c) 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 abeyance until conclusion of any pending criminal charges

against the claimant under this chapter or AS 11.71. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(g) — (i). Renumbered in 1983. **Cross references.** — For penalty for failure to furnish notification required under this chapter, see AS 11.71.050(a)(4).

Sec. 17.30.118. Petition for release of seized items. (a) A claimant under AS 17.30.116(b) 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
- (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.

(b) An item may not be released by the court under (a) 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 assessed value of the item. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(j) and (k). Renumbered in 1983.

Sec. 17.30.120. Petition for sale of seized item. 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. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(l). Renumbered in 1983.

Sec. 17.30.122. State disposal of forfeited property. Property forfeited under AS 17.30.110 — 17.30.126 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;

(5) forward it to the Drug Enforcement Administration of the United States Department of Justice for disposition; or

(6) transfer ownership of an aircraft to the Alaska Wing, Civil Air Patrol. (§ 4 ch 45 SLA 1982; am § 2 ch 18 SLA 1983)

Revisor's notes. — Formerly AS 17.30.110(m). Renumbered in 1983.

Effect of amendments. — The 1983 amendment added paragraph (6).

Sec. 17.30.124. Remittance to claimant. (a) Upon a showing that a claimant is entitled to remittance under AS 17.30.110 — 17.30.126, 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.

(b) 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. (§ 4 ch 45 SLA 1982)

Revisor's notes. — Formerly AS 17.30.110(n) and (o). Renumbered in 1983.

Sec. 17.30.126. Forfeiture of controlled substances. (a) 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 AS 17.30.114(b) 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.

(b) 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)

Revisor's notes. — Formerly AS 17.30.110(p) and (q). Renumbered in 1983.

Sec. 17.30.130. Judicial review. A final determination, finding, or conclusion of the board under this chapter or a regulation adopted under it is a final decision of the matter involved. A person aggrieved by a decision may obtain review of the decision in the superior court in accordance with AS 44.62.560 — 44.62.570. However, a person is not entitled to a hearing de novo in the superior court. (§ 4 ch 45 SLA 1982)

Article 3. Education and Research.

Section

140. Education and research

Sec. 17.30.140. Education and research. (a) The commissioner of health and social services shall provide for educational programs designed to prevent and deter the abuse of controlled substances. In connection with these programs, the commissioner may

(1) assist the regulated industry and interested groups and organizations in contributing to the reduction of abuse of controlled substances;

(2) promote better recognition of the problems surrounding abuse of controlled substances within the regulated industry and among interested groups and organizations;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects and techniques conducted or proposed as part of educational programs on abuse of controlled substances;

(5) disseminate the results of research on abuse of controlled substances to promote a better public understanding of the problems which exist and their solutions; and

(6) with the cooperation of the Department of Law, assist in the education and training of state and local law enforcement officials in their efforts to prevent illicit traffic in and abuse of controlled substances.

(b) The commissioner of health and social services shall encourage research on controlled substances and may

(1) establish methods to assess the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake research to

(A) develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this chapter;

(B) determine patterns of abuse of controlled substances and their social effects; and

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 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; am § 71 ch 9 SLA 1984)

Effect of amendments. — The 1984 amendment deleted "or by a regulation adopted in accordance with AS 11.71.120(a)" preceding "is different" in subsection (c).

Sec. 17.30.080. Unlawful administration, prescription and dispensation of controlled substances. (a) A controlled substance classified under federal law or in a schedule set out in AS 11.71.140 — 11.71.190 may not be administered, prescribed, dispensed, or distributed other than for a medical purpose.

(b) A person who violates (a) of this section, or who otherwise manufactures, distributes, dispenses, or conducts research with a controlled substance in the state without fully complying with 21 U.S.C. 811 — 830 (Controlled Substances Act), and regulations adopted under those sections, is guilty of misconduct involving a controlled substance under AS 11.71.010 — 11.71.040 in the degree appropriate to the circumstances as described in those sections. (§ 4 ch 45 SLA 1982; am § 72 ch 6 SLA 1984; am § 18 ch 146 SLA 1986)

Effect of amendments. — The 1984 amendment deleted "or by regulations adopted in accordance with AS 11.71.120(a)" preceding "may not be administered." The 1986 amendment added subsection (b).

Article 2. Enforcement Forfeiture and Review Provisions.

Section	Section
100. Powers of the department of public safety	130. [Repealed]

Sec. 17.30.100. Powers of the department of public safety. (a) The commissioner of public safety shall enforce this chapter and 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:

(1) arranging for the exchange of information among government officials concerning illicit traffic in and abuse of controlled substances;

(2) coordinating training programs pertaining to controlled substances at both local and state levels;

(3) cooperating with the Drug Enforcement Administration of the United States Department of Justice by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of persons who have violated the provisions of this chapter or AS 11.71 in the state and making the information available for federal, state, and local law enforcement purposes; and

(4) instituting in the superior court, actions for injunctions against continued manufacture, distribution, dispensation, or research with a controlled substance in the state by a person who violates 21 U.S.C. 811 — 830 (Controlled Substances Act) or the regulations adopted under these sections.

(b) The commissioner of public safety may not furnish the name or identity of a patient or research subject whose identity could not be obtained under AS 17.30.155.

(c) The Department of Public Safety, in cooperation with other state and federal agencies, and in accordance with AS 37.07 (the Executive Budget Act), may apply for and accept money necessary to exchange information concerning narcotics trafficking between the states. The commissioner of administration shall separately account for money received under this subsection that the Department of Public Safety deposits in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of this section. (§ 4 ch 45 SLA 1982; am § 34 ch 138 SLA 1986; am § 19 ch 146 SLA 1986)

Effect of amendments. — The first 1986 amendment added subsection (c).

The second 1986 amendment rewrote the catchline, and in subsection (a) in-

serted "enforce this chapter and shall" in the first sentence, added paragraph (4), and made related, minor word changes.

Sec. 17.30.110. Items subject to forfeiture.

NOTES TO DECISIONS

Quoted in *Resek v. State*, Sup. Ct. Op. No. 2972 (File No. S-205), 706 P.2d 288 (1985).

Sec. 17.30.112. Proceedings resulting in forfeiture.**NOTES TO DECISIONS**

Right to appointed counsel. — An indigent claimant does not have a constitutional right to the assistance of counsel at public expense in a separate civil in rem proceeding brought by the state pursuant to subsection (a). *Resek v. State*, Sup. Ct. Op. No. 2972 (File No. S-205), 706 P.2d 288 (1985).

An in rem forfeiture is not a "criminal prosecution" within the meaning of Alaska Const., Art. I, § 11, concerning an

accused's right to counsel; however, in the situation in which there are no criminal charges pending or the forfeiture proceeding has not been stayed, a trial court has the discretion to require that counsel be provided to an indigent claimant, at least for the purpose of protecting the claimant's privilege against self-incrimination. *Resek v. State*, Sup. Ct. Op. No. 2972 (File No. S-205), 706 P.2d 288 (1985).

Sec. 17.30.114. Seizure and custody of property.**NOTES TO DECISIONS**

Cited in *Resek v. State*, Sup. Ct. Op. No. 2972 (File No. S-205), 706 P.2d 288 (1985).

Sec. 17.30.116. Procedure for forfeiture action.**NOTES TO DECISIONS**

Cite in *Resek v. State*, Sup. Ct. Op. No. 2972 (File No. S-205), 706 P.2d 288 (1985).

Sec. 17.30.130. Judicial review. [Repealed, § 22 ch 146 SLA 1986.]**Article 4. General Provisions.****Section**

150. Reliance on Drug Enforcement Administration

Section

155. Confidentiality of certain information

900. Definitions

Sec. 17.30.150. Reliance on Drug Enforcement Administration. Results, information, and evidence received from the Drug Enforcement Administration of the United States Department of Justice relating to the enforcement functions of this chapter, including results of inspections conducted by it, may be relied on and acted on by the Department of Public Safety in the exercise of its enforcement functions under this chapter. (§ 4 ch 45 SLA 1982; am § 20 ch 146 SLA 1986)

Effect of amendments. — The 1986 amendment substituted "enforcement" for "regulatory" in two places and substituted "Department of Public Safety" for "board."

Sec. 17.30.155. Confidentiality of certain information. A practitioner engaged in medical practice or research may not disclose the name or identity of a patient or research subject that the practitioner is required to keep confidential unless ordered by a court to disclose it within the context of a criminal investigation or proceeding. (§ 4 ch 45 SLA 1982; am § 21 ch 146 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence substituted "disclose" for "furnish" and deleted "to the board. The practitioner may not otherwise disclose the name or identity of an individual" following "patient or research subject."

Sec. 17.30.900. Definitions. (a) Unless the context clearly requires otherwise, the definitions set out in AS 11.71.900 apply to this chapter.

(b) [*Repealed, § 22 ch 146 SLA 1986.*] (§ 4 ch 45 SLA 1982; am § 22 ch 146 SLA 1986)

Effect of amendments. — The 1986 amendment repealed subsection (b), which defined "board."

Chapter 35. Marijuana Therapeutic Research Program.

[*Repealed, § 22 ch 146 SLA 1986.*]

Original sponsors: Sturgulewski, Uehling,
Fischer and Rodey

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 462 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances and
8 imitation controlled substances."

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

10 * Section 1. AS 11.73.060 is amended to read:

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

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

19 * Sec. 2. AS 17.30.110 is amended to read:

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

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

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

1 chapter or AS 11.71;

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

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

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

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

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

27 (6) property, including money, securities, or negotiable
28 instruments, that is

29 (A) furnished by a person in exchange for a controlled

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substance in violation of this chapter or AS 11.71;

(B) used in, intended for use in, or used to facilitate a violation of this chapter or AS 11.71; or

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

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

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

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

(B) a forfeiture of real property 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 real property in violation of this chapter or AS 11.71 was committed by another person and that the secured party was neither a consenting party nor privy to the violation;

(9) property acquired, maintained, produced by, or derived

1 from proceeds obtained directly or indirectly from a violation of this
2 chapter or AS 11.71.

3 * Sec. 3. AS 17.30.112 is repealed and reenacted to read:

4 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE. (a) Prop-
5 erty listed in AS 17.30.110 may be forfeited to the state or a munic-
6 ipality upon the order of the commissioner of public safety or a chief
7 of police in a summary administrative forfeiture proceeding under
8 AS 17.30.115, upon conviction of the defendant of a violation of this
9 chapter or AS 11.71, or upon judgment of a court in a separate civil
10 proceeding in rem.

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

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

18 (2) commence a civil proceeding in rem under AS 17.30.116;
19 or

20 (3) release the property, unless the property is subject to
21 AS 17.30.126.

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

1 (d) A court may order a forfeiture in the in rem proceeding if
2 it finds that an item specified in AS 17.30.110 was used during or in
3 aid of a violation of this chapter or AS 11.71. It is not a defense
4 in an in rem proceeding brought under this chapter that a criminal
5 proceeding has resulted in a conviction or conviction of a lesser
6 offense for a violation of this chapter or AS 11.71.

7 * Sec. 4. AS 17.30.114 is amended to read:

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

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

15 (2) the property subject to seizure has been the subject of
16 an earlier judgment in favor of the state or a municipality in a
17 criminal proceeding or civil proceeding in rem under this chapter or
18 AS 11.71; or

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

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

1 FORFEITURE PROCEEDINGS]. If property is seized under this chapter,
2 the commissioner of public safety or a [AN AUTHORIZED] municipal law
3 enforcement agency may

4 (1) place the property under seal;

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

6 or

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

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

14 * Sec. 5. AS 17.30 is amended by adding a new section to read:

15 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

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

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

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

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

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

4 (C) state that a person claiming an interest in the
5 property shall, within 20 days from the date of the first publi-
6 cation of the notice, file with the official a claim to the
7 property and a bond in the proper amount.

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

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

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

1 time, the official may proceed as though the claim and bond had not
2 been tendered.

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

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

10 (g) In this section

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

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

16 * Sec. 6. AS 17.30.116(a) is amended to read:

17 (a) If the estimated value of seized property is more than
18 \$100,000, or the commissioner of public safety or chief of police in
19 custody of seized property elects to commence a civil proceeding in
20 rem against property with an estimated value of \$100,000 or less or
21 against a conveyance, [WITHIN 20 DAYS AFTER A SEIZURE UNDER AS 17.-
22 30.110 - 17.30.126,] the commissioner of public safety or chief of
23 police shall, by certified mail, notify any person known to have an
24 interest in an item with an estimated [APPRAISED] value of \$500 or
25 more, or who is ascertainable from official registration numbers,
26 licenses, or other state, federal, or municipal numbers on the item,
27 of the pending forfeiture action. Additionally, the commissioner of
28 public safety or chief of police shall publish notice of forfeiture
29 action of an item valued at \$500 or more in a newspaper of general

1 circulation in the judicial district in which the seizure was made, or
2 if no newspaper is published in that judicial district, in a newspaper
3 published in the state and distributed in that judicial district. The
4 notice shall be published once each week during four consecutive
5 calendar weeks. The requirements of this subsection do not apply to

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

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

12 * Sec. 7. AS 17.30.120 is amended to read:

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

21 * Sec. 8. AS 17.30.122 is amended to read:

22 Sec. 17.30.122. STATE DISPOSAL OF FORFEITED PROPERTY. Property
23 forfeited to the state under AS 17.30.110 - 17.30.138, [AS 17.30.110 -
24 17.30.126] other than controlled substances, shall be disposed of by
25 the commissioner of administration in accordance with applicable law.
26 The commissioner of administration may

27 (1) destroy property harmful to the public;

28 (2) sell the property and use the proceeds for payment of
29 all proper expenses of the proceedings for forfeiture and sale,

1 including expenses of seizure, custody, and court costs; proceeds re-
2 maining from the sale of the property after expenses are paid shall be
3 deposited in the general fund;

4 (3) take custody of the property and authorize its use in
5 the enforcement of this chapter or AS 11.71, or transfer it to another
6 agency of the state or a political subdivision of the state for a use
7 in furtherance of the administration of justice;

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

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

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

15 * Sec. 9. AS 17.30.126(a) is amended to read:

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

26 * Sec. 10. AS 17.30 is amended by adding a new section to article 2 to
27 read:

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

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

1 agency of a municipality;

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

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

8 * Sec. 11. AS 29.10.200 is amended by adding a new paragraph to read:

9 (49) AS 29.35.135 (forfeiture of property under AS 17.30)

10 * Sec. 12. AS 29.35 is amended by adding a new section to read:

11 Sec. 29.35.135. FORFEITURE OF PROPERTY UNDER AS 17.30. (a) The
12 governing body may adopt an ordinance authorizing the chief of police
13 to conduct a summary administrative forfeiture proceeding under
14 AS 17.30 for forfeiture of property seized by the municipal law en-
15 forcement agency in cases involving controlled substances.

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

19 (1) destroy property harmful to the public;

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

23 (3) take custody of the property and authorize its use in
24 the enforcement of AS 11.71 or AS 17.30 or for a use in the adminis-
25 tration of justice;

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

28 (5) forward it to the Drug Enforcement Administration of
29 the United States Department of Justice for disposition.

Original sponsors: Sturgulewski, Uehling,
Fischer and Rodey

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 462 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances."

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

9 * Section 1. AS 17.30.110 is amended to read:

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

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

16 (2) raw materials, products, and equipment that [WHICH] are
17 used or intended for use in manufacturing, distributing, compounding,
18 processing, delivering, importing, or exporting a controlled substance
19 that [WHICH] is a felony under this chapter or AS 11.71;

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

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

28 (A) a conveyance may not be forfeited under this
29 paragraph if the owner of the conveyance establishes, by a

1 preponderance of the evidence, at a hearing before the court as
2 the trier of fact, that use of the conveyance in violation of
3 this chapter or AS 11.71 was committed by another person and that
4 the owner was neither a consenting party nor privy to the viola-
5 tion;

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

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

17 (6) money, securities, negotiable instruments, or other
18 things of value used in financial transactions derived from activity
19 prohibited by this chapter or AS 11.71; [AND]

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

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

26 (A) real property may not be forfeited under this
27 paragraph if the owner of the real property establishes, by a
28 preponderance of the evidence, at a hearing before the court as
29 the trier of fact, that use of the real property in violation of

1 this chapter or AS 11.71 was committed by another person and that
2 the owner was neither a consenting party nor privy to the vio-
3 lation;

4 (B) a forfeiture of real property encumbered by a
5 valid security interest at the time of seizure is subject to the
6 interest of the secured party if the secured party establishes,
7 by a preponderance of the evidence, at a hearing before the court
8 as the trier of fact, that use of the real property in violation
9 of this chapter or AS 11.71 was committed by another person and
10 that the secured party was neither a consenting party nor privy
11 to the violation.

12 * Sec. 2. AS 17.30.112 is amended to read:

13 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE. (a) Prop-
14 erty listed in AS 17.30.110 may be forfeited to the state or a munic-
15 ipality upon the order of the commissioner of public safety or a chief
16 of police in a summary administrative forfeiture proceeding under
17 AS 17.30.115, [EITHER] upon conviction of the defendant of a violation
18 of this chapter or AS 11.71, or upon judgment of a court in a separate
19 civil proceeding in rem.

20 (b) Within 20 days after property is seized under AS 17.30.114,
21 the commissioner of public safety or a chief of police, whoever is in
22 custody of the property, shall

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

25 (2) commence a civil proceeding in rem under AS 17.30.116;

26 or

27 (3) release the property, unless the property is subject to
28 AS 17.30.126.

29 (c) A [THE] court may order a forfeiture in the in rem

1 proceeding if it finds that an item specified in AS 17.30.110 was used
2 during or in aid of a violation of this chapter or AS 11.71. [(b)]
3 It is not a defense in an in rem proceeding brought under this chapter
4 [SECTION] that a criminal proceeding has resulted in a conviction or
5 conviction of a lesser offense for a violation of this chapter or
6 AS 11.71.

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

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

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

15 (2) the property subject to seizure has been the subject of
16 an earlier judgment in favor of the state or a municipality in a
17 criminal proceeding or civil proceeding in rem under this chapter or
18 AS 11.71; or

19 (3) there is probable cause that the property was used, is
20 being used, or is intended for use, in violation of this chapter or AS
21 11.71 and the property is easily movable; property seized under this
22 paragraph may not be held for more than 48 hours without a court order
23 obtained to continue its detention.

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

1 FORFEITURE PROCEEDINGS]. If property is seized under this chapter,
2 the commissioner of public safety or a [AN AUTHORIZED] municipal law
3 enforcement agency may

4 (1) place the property under seal;

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

6 or

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

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

14 * Sec. 4. AS 17.30 is amended by adding a new section to read:

15 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

16 (a) If the appraised value of seized property is \$100,000 or less or
17 if the seized property is a conveyance subject to forfeiture under
18 AS 17.30.110(4), the official who has custody of seized property may
19 commence a summary administrative forfeiture proceeding by

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

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

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

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

4 (C) state that a person claiming an interest in the
5 property shall, within 20 days from the date of the first publi-
6 cation of the notice, file with the official a claim to the
7 property and a bond in the proper amount.

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

12 (c) The bond with satisfactory sureties shall be in the amount
13 of \$2,500 or 10 percent of the appraised value of the property, which-
14 ever is lower, but not less than \$250. The bond shall be in cash,
15 certified check, or satisfactory sureties. The bond shall be rendered
16 to the state or municipality, as appropriate, with sureties approved
17 by the official and conditioned that in the event of judicial forfei-
18 ture of the property the obligor shall pay from the bond all costs and
19 expenses of the civil proceeding in rem.

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

1 time, the official may proceed as though the claim and bond had not
2 been tendered.

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

6 (f) If a timely and satisfactory claim and bond are not filed
7 within the time required under this section, the official shall
8 declare the property forfeited. The official shall execute a declara-
9 tion of forfeiture.

10 (g) In this section

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

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

16 * Sec. 5. AS 17 30.116(a) is amended to read:

17 (a) If an item of property seized is appraised at more than
18 \$100,000, or the commissioner of public safety or chief of police in
19 custody of seized property elects to commence a civil proceeding in
20 rem against property appraised at \$100,000 or less or against a con-
21 veyance, or a summary administrative forfeiture proceeding is ter-
22 minated upon the timely and satisfactory filing of a claim and bond,
23 [WITHIN 20 DAYS AFTER A SEIZURE UNDER AS 17.30.110 - 17.30.126,] the
24 commissioner of public safety or chief of police shall, by certified
25 mail, notify any person known to have an interest in an item with an
26 appraised value of \$500 or more, or who is ascertainable from official
27 registration numbers, licenses, or other state, federal, or municipal
28 numbers on the item, of the pending forfeiture action. Additionally,
29 the commissioner of public safety or chief of police shall publish

1 notice of forfeiture action of an item valued at \$500 or more in a
2 newspaper of general circulation in the judicial district in which the
3 seizure was made, or if no newspaper is published in that judicial
4 district, in a newspaper published in the state and distributed in
5 that judicial district. The notice shall be published once each week
6 during four consecutive calendar weeks. The requirements of this
7 subsection do not apply to the forfeiture of controlled substances
8 which have been manufactured, distributed, dispensed, or possessed in
9 violation of this chapter or AS 11.71, regardless of their value.

10 * Sec. 6. AS 17.30.120 is amended to read:

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

19 * Sec. 7. AS 17.30.122 is amended to read:

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

25 (1) destroy property harmful to the public;

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

1 deposited in the general fund;

2 (3) take custody of the property and authorize its use in
3 the enforcement of this chapter or AS 11.71, or transfer it to another
4 agency of the state or a political subdivision of the state for a use
5 in furtherance of the administration of justice;

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

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

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

13 * Sec. 8. AS 17.30.126(a) is amended to read:

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

24 * Sec. 9. AS 17.30 is amended by adding a new section to article 2 to
25 read:

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

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

29 (2) "municipality" means a municipality that has adopted an

1 ordinance under AS 29.35.135 providing for summary administrative
2 forfeiture proceedings to be conducted by the municipality's chief of
3 police.

4 * Sec. 10. AS 29.10.200 is amended by adding a new paragraph to read:

5 (49) AS 29.35.135 (forfeiture of property under AS 17.30)

6 * Sec. 11. AS 29.35 is amended by adding a new section to read:

7 Sec. 29.35.135. FORFEITURE OF PROPERTY UNDER AS 17.30. (a) The
8 governing body may adopt an ordinance authorizing the chief of police
9 to conduct a summary administrative forfeiture proceeding under
10 AS 17.30 for forfeiture of property seized by the municipal law
11 enforcement agency in cases involving controlled substances.

12 (b) Property forfeited to the municipality under AS 17.30.110 -
13 17.30.138 shall be disposed of by the municipality under applicable
14 law and ordinance. The municipality may

15 (1) destroy property harmful to the public;

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

19 (3) take custody of the property and authorize its use in
20 the enforcement of AS 11.71 or AS 17.30 or for a use in the adminis-
21 tration of justice;

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

24 (5) forward it to the Drug Enforcement Administration of
25 the United States Department of Justice for disposition.

26

27

1 IN THE SENATE

BY STURGULEWSKI, UEHLING,
FISCHER AND RODEY

2

SENATE BILL NO. 462

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to seizure and forfeiture of proper-
7 ty in cases involving controlled substances."

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

9 * Section 1. AS 17.30.110 is amended by adding a new paragraph to read:
10 (8) real property, including interests in real property and
11 appurtenances and improvements to real property, that is used or
12 intended for use to commit, or to facilitate the commission of, a
13 felony offense under this chapter or AS 11.71; however

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

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

29 * Sec. 2. AS 17.30.112 is amended to read:

1 Sec. 17.30.112. PROCEEDINGS RESULTING IN FORFEITURE. (a) Prop-
2 erty listed in AS 17.30.110 may be forfeited to the state upon the
3 order of the commissioner of public safety in a summary administrative
4 forfeiture proceeding under AS 17.30.115, [EITHER] upon conviction of
5 the defendant of a violation of this chapter or AS 11.71, or upon
6 judgment of a court in a separate civil proceeding in rem.

7 (b) Within 20 days after property is seized under AS 17.30.114,
8 the custodian of the property shall

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

11 (2) commence a civil proceeding in rem under AS 17.30.116;

12 or

13 (3) release the property, unless the property is subject to
14 AS 17.30.126.

15 (c) A [THE] court may order a forfeiture in the in rem proceed-
16 ing if it finds that an item specified in AS 17.30.110 was used during
17 or in aid of a violation of this chapter or AS 11.71. [(b)] It is
18 not a defense in an in rem proceeding brought under this chapter
19 [SECTION] that a criminal proceeding has resulted in a conviction or
20 conviction of a lesser offense for a violation of this chapter or
21 AS 11.71.

22 * Sec. 3. AS 17.30.114(b) is amended to read:

23 (b) Property taken or detained under (a) of this section shall
24 be held in the custody of either the commissioner of public safety or
25 a municipal law enforcement agency authorized by the commissioner of
26 public safety to retain custody of property listed in AS 17.30.110
27 subject only to disposition under procedures set out in this chapter
28 [THE ORDERS AND DECREES OF THE COURT HAVING JURISDICTION OVER ANY
29 FORFEITURE PROCEEDINGS]. If property is seized under this chapter,

1 the commissioner of public safety or an authorized municipal law
2 enforcement agency may

3 (1) place the property under seal;

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

5 or

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

8 * Sec. 4. AS 17.30 is amended by adding a new section to read:

9 Sec. 17.30.115. SUMMARY ADMINISTRATIVE FORFEITURE PROCEEDING.

10 (a) If the appraised value of seized property is \$100,000 or less or
11 if the seized property is a conveyance subject to forfeiture under
12 AS 17.30.110(4), the commissioner of public safety may commence a
13 summary administrative forfeiture proceeding by

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

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

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

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

27 (C) state that a person claiming an interest in the
28 property shall, within 20 days from the date of the first publi-
29 cation of the notice, file with the commissioner of public safety

1 a claim to the property and a bond in the proper amount.

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

6 (c) The bond with satisfactory sureties shall be in the amount
7 of \$2,500 or 10 percent of the appraised value of the property, which-
8 ever is lower, but not less than \$250. The bond shall be in cash,
9 certified check, or satisfactory sureties. The bond shall be rendered
10 to the state with sureties approved by the commissioner and condi-
11 tioned that in the event of judicial forfeiture of the property the
12 obligor shall pay from the bond all costs and expenses of the civil
13 proceeding in rem.

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

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

29 (f) If a timely and satisfactory claim and bond are not filed

1 within the time required under this section, the commissioner shall
2 declare the property forfeited. The commissioner shall prepare a
3 declaration of forfeiture and forward a copy of the declaration to the
4 custodian of the property.

5 (g) In this section "commissioner of public safety" includes an
6 employee of the Department of Public Safety designated by the commis-
7 sioner to conduct summary administrative forfeiture proceedings.

8 * Sec. 5. AS 17.30.116(a) is amended to read:

9 (a) If an item of property seized is appraised at more than
10 \$100,000, or the custodian of property seized elects to commence a
11 civil proceeding in rem against property appraised at \$100,000 or less
12 or against a conveyance, or a summary administrative forfeiture pro-
13 ceeding is terminated upon the timely and satisfactory filing of a
14 claim and bond, [WITHIN 20 DAYS AFTER A SEIZURE UNDER AS 17.30.110 -
15 17.30.126,] the commissioner of public safety shall, by certified
16 mail, notify any person known to have an interest in an item with an
17 appraised value of \$500 or more, or who is ascertainable from official
18 registration numbers, licenses, or other state, federal, or municipal
19 numbers on the item, of the pending forfeiture action. Additionally,
20 the commissioner of public safety shall publish notice of forfeiture
21 action of an item valued at \$500 or more in a newspaper of general
22 circulation in the judicial district in which the seizure was made, or
23 if no newspaper is published in that judicial district, in a newspaper
24 published in the state and distributed in that judicial district. The
25 notice shall be published once each week during four consecutive
26 calendar weeks. The requirements of this subsection do not apply to
27 the forfeiture of controlled substances which have been manufactured,
28 distributed, dispensed, or possessed in violation of this chapter or
29 AS 11.71, regardless of their value.

1 * Sec. 6. AS 17.30.122 is amended to read:

2 Sec. 17.30.122. STATE DISPOSAL OF FORFEITED PROPERTY. Property
3 forfeited under AS 17.30.110 - 17.30.126 other than controlled sub-
4 stances shall be disposed of by the commissioner of administration
5 in accordance with applicable law. The commissioner of administration
6 may

7 (1) destroy property harmful to the public;

8 (2) sell the property and use the proceeds for payment of
9 all proper expenses of the proceedings for forfeiture and sale, in-
10 cluding expenses of seizure, custody, and court costs; proceeds re-
11 maining from the sale of the property after expenses are paid shall be
12 returned to the political subdivision of the state that seized the
13 property or placed in the general fund if the property was seized by
14 an agency of the state;

15 (3) take custody of the property and authorize its use in
16 the enforcement of this chapter or AS 11.71, or transfer it to another
17 agency of the state or a political subdivision of the state for a use
18 in furtherance of the administration of justice;

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

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

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

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3-24-88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: JUDICIARY

**FISCAL NOTE(S) ATTACHED _____ **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/16/88

DATE TURNED INTO OFFICE 3-2-88

Mr. President:

STATE AFFAIRS Committee considered SB 462

seizure and forfeiture of property in cases involving controlled substances

Mazany
and recommended:

replace with CS SB 462 (SA) same title
 attached amendment(s) and *do pass* new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECCMMENDATIONS

[Signature] (DO PASS)
[Signature]
[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

Rev'd 3/4
arm

FURTHER.

FINANCE

3/3/88

DATE TURNED INTO OFFICE _____

Mr. President:

Judiciary

Committee considered ~~SB~~ SB 462

(c)

seizure and forfeiture of property in cases involving controlled substances

and recommended

replace with _____ CS SB 462 (Jud)) same title
 or adopt _____ CS _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Joe P. Josephson

Patricia Rogers

Julius Sturgis

Keith A. Do pass
Chairman signature and recommendation

Committee Backup attached