

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 952

H. P. 734

House of Representatives, February 20, 1969

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. MacPhail of Owl's Head.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT to Provide for Forfeiture of Vehicles Used to Transport Narcotics.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 22, § 2367-A, additional. Title 22 of the Revised Statutes is amended by adding a new section 2367-A, to read as follows:

§ 2367-A. Forfeiture of vehicles

1. Vehicles subject to forfeiture. Any vehicle used to transport or cause to be transported or facilitate the transportation of any substance, the possession or sale of which is unlawful under chapters 557 and 558 is contraband and shall be subject to forfeiture to the State of Maine.

2. Vehicle defined. The word "vehicle" as used in the section shall include any conveyance used in the transportation of passengers and property whether by land, water or air.

3. Seizure and delivery to the State. Any law enforcement officer of this State shall seize any vehicle subject to forfeiture in accordance with this section, and shall deliver such vehicle to the Maine State Police to be held as evidence until forfeiture has been declared or a release ordered. When said vehicles are seized as provided, the officer or agent seizing same shall, within a reasonable time, file a libel with the District Court Judge of the division in which the vehicle was seized. No vehicle shall be subject to forfeiture under this section by reason of any act or omission as established by the owner thereof to have been committed or omitted by any person other than such owner and without such owner's knowledge or consent.

A. Contents of libel. The following information shall be contained in the libel:

- (1) A description of the vehicle seized by the officer;
- (2) Time and place of seizure;
- (3) The basis for the seizure;
- (4) A prayer for a decree of forfeiture of the vehicle.

B. Notice. The judge to whom the libel is directed shall fix a time for the hearing of the libel. He shall issue an order of notice to all persons interested, citing them to appear at the time and place appointed to show cause why said vehicle should not be declared forfeited to the State.

C. Service of notice. Notice shall be given in seizures under this section as follows:

(1) A certified copy of the libel and order of notice shall be served personally upon the registered owner of the vehicle, if any, and to the person who was in control of the vehicle, if any, at the time the seizure was accomplished.

(2) A certified copy of the libel and order of notice shall be published at least one week before the date set for hearing in a paper of general circulation within the county where the vehicle was seized. If no such newspaper is generally circulated within said county, then the publication shall be in the state paper.

4. Vehicles forfeited if no court appearance. If no claimant appears at the hearing on the libel at the time specified in the order of notice, and the return of service of the officer is in compliance with the order of notice, the judge shall declare the vehicle forfeited to the State, and turned over to the Maine State Police for disposition under the direction of the Attorney General.

5. Duty of claimant to file written claim on or before hearing day. If any person appears at the time of the hearing of the libel, as specified in the order of notice, and claims title to the vehicle listed in the libel and claims the right to possession of the vehicle, he shall file a written claim with the judge on or before the day set for hearing. The claim must contain the following:

- A. A statement of his title and right so claimed, and the basis thereof;
- B. A description of the vehicle claimed.

6. Claimant admitted as party; hearing. Any person, firm or corporation who makes a written claim as provided shall be admitted as a party to the process, and the court shall proceed to determine the truth of the allegations and the claim and the libel, and shall hear any relevant evidence offered by the libelant or the claimant.

7. Court order if claimant found entitled to vehicle. If the judge, upon hearing, is satisfied that the vehicle listed in the claimant's claim was not subject to forfeiture in accordance with this section, and that the claimant has

title or is entitled to the possession of the vehicle, he shall give the claimant an order in writing and the judge shall direct the order to the libelant commanding him to deliver the vehicle to the claimant.

8. Forfeiture, executions for cost of appeal. If the judge finds that the claimant was not entitled to the vehicle claimed, the judge shall order the vehicle forfeited to the State and turned over to the Maine State Police for disposition under the direction of the Attorney General. Execution may issue for the costs as in civil cases.

9. Appeal. The claimant may appeal to the Superior Court and upon appeal the District Court Judge shall order the claimant to recognize with sureties and may order that the vehicle remain in the custody of the law enforcement officer pending the disposition of the appeal.