

MAINE STATE LEGISLATURE

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A. No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of sections 2210, 2210-A, 2212-B, 2212-C, 2212-E, 2362, 2362-C, 2383 or 2384;

B. No conveyance shall be forfeited by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of this State or of any state.

4. Petition; order. A county attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of a conveyance subject to forfeiture under subsection 1, paragraph B. Such petition shall be filed in the court having jurisdiction over the said conveyance. Such proceeding shall be deemed a civil suit in equity, in which the State shall have the burden of proving all material facts by a preponderance of the evidence and the owner of said conveyance or other person claiming thereunder shall have such burden as to all exceptions set forth in subsection 3. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the said conveyance and to such other person as appears to have an interest therein and shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. At such hearing, the court shall hear evidence and make findings of fact and enter conclusions of law, and shall thereupon issue a final order, from which the parties shall have such right of appeal as from a decree in equity. Such final order shall provide for disposition of the said conveyance by the State or any subdivision thereof in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, or sale at public auction or by competitive bidding. The proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and the balance, of any, shall be deposited in the treasury of the State, county or municipality making such seizure.

5. Records. Any officer, department or agency having custody of said property or having disposed of said property shall keep and maintain full and complete records showing from whom it received said property, under what authority it held or received or disposed of said property, to whom it delivered said property, the date and manner of destruction or disposition of said property, and the exact kinds, quantities and forms of said property. Said records shall be open to inspection by all federal and state officers charged with enforcement of federal and state drug control laws. Persons making final disposition or destruction of said property under court order shall report, under oath, to the court the exact circumstances of said disposition or destruction.

6. Preliminary order. During the pendency of the proceedings, the court may issue at the request of the State ex parte any preliminary order or process as is necessary to seize or secure the property for which forfeiture

is sought and to provide for its custody. Process for seizure of said property shall issue only upon a showing of probable cause and the application therefor and the issuance, execution and return thereof shall be subject to the provisions of applicable Maine law.

STATEMENT OF FACT

The purpose of this bill is reflected in the title.