

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 973

H. P. 819

House of Representatives, February 24, 1981

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Davis of Monmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Concerning Motor Vehicles Used in Crimes.

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

Sec. 1. 22 MRSA § 2387, sub-§ 1, ¶ B, as last amended by PL 1975, c. 740, § 126, is further amended to read:

B. All conveyances, including aircraft, watercraft, vehicles or vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacture, trafficking or furnishing of a substance in violation of Title 17-A, chapter 45, or used in commission of any Class A, B or C crime.

Sec. 2. 22 MRSA § 2387, sub-§ 2, as enacted by PL 1973, c. 524, is amended to read:

2. Jurisdiction. Property subject to forfeiture under subsection 1, paragraph A or B, shall be declared forfeited by any court having jurisdiction over said the property or having final jurisdiction over any related criminal proceeding brought under any provision of this chapter.

Sec. 3. 22 MRSA § 2387, sub-§ 3, as last amended by PL 1975, c. 740, §§ 127 and 128, is further amended to read:

3. Exceptions. The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph A or B, except as follows.

A. No conveyance used by any person as a common carrier in the transaction of business as a common carrier ~~shall~~ **may** 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 Title 17-A, chapter 45, **or any Class A, B or C crime.**

B. No conveyance ~~shall~~ **may** 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.

C. No conveyance ~~shall~~ **may** be subject to forfeiture unless the owner thereof knew or should have known that such conveyance was used in and for the unlawful manufacturing, trafficking or furnishing of any substance in violation of Title 17-A, chapter, **or any Class A, B or C crime.** Proof that the conveyance was used on ~~3~~ **2** or more occasions for the ~~purpose of unlawfully manufacturing, trafficking or furnishing any such substance~~ **purposes contained in section 1, paragraph A or B,** shall be prima facie evidence that such owner knew thereof or should have known thereof.

Sec. 4. 22 MRSA § 2387, sub-§ 4, as amended by PL 1973, c. 567, § 20, is further amended to read:

4. Petition; order. A district 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~~ **property** subject to forfeiture under subsection 1, paragraph **A or B.** Such petition shall be filed in the court having jurisdiction over the ~~said~~ conveyance. Such proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence and the owner of ~~said~~ **the** 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. 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 to pay any bona fide mortgage thereon, and the balance, if any, shall be deposited in the treasury of the State, county or municipality making such seizure.

Sec. 5. 22 MRSA § 2387, sub-§ 5, last 2 sentences, as enacted by PL 1973, c. 524, are amended to read:

~~Said~~ **These** 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~~ **the** property under court order shall report, under oath, to the court the exact circumstances of ~~said~~ **the** disposition or destruction.

STATEMENT OF FACT

The purpose of this bill is to provide for the forfeiture of vehicles used to commit Class A, B, C or D crimes.