

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1264

H.P. 941 House of Representatives, April 14, 1987  
Reference to the Committee on Legal Affairs suggested and  
ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative CARTER of Winslow.  
Cosponsored by Representative PARADIS of Augusta,  
Senators BRANNIGAN of Cumberland and BLACK of Cumberland.

STATE OF MAINE

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

1 AN ACT to Allow Municipal Officers to Decide  
2 on the Disposition of Property Taken  
3 in Drug Cases.  
4

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

7 Sec. 1. 22 MRSA c. 558, first 2 lines, are re-  
8 pealed and the following enacted in their place:

9 CHAPTER 558

10 ILLEGAL DRUGS AND IMITATION SCHEDULED DRUGS

11 Sec. 2. 22 MRSA §2387, sub-§4, as amended by PL  
12 1981, c. 529, §3, is further amended to read:

1           4. Petition; order. A district attorney or the  
2 Attorney General may petition the Superior Court in  
3 the name of the State in the nature of a proceeding  
4 in rem to order forfeiture of property subject to  
5 forfeiture under subsection 1, paragraphs B and C.  
6 Such petition shall be filed in the court having ju-  
7 risdiction over the property. Such proceeding shall  
8 be deemed a civil suit, in which the State shall have  
9 the burden of proving all material facts by a prepon-  
10 derance of the evidence and the owner of the property  
11 or other person claiming thereunder shall have such  
12 burden as to all exceptions set forth in subsection  
13 3. The court shall order the State to give notice by  
14 certified or registered mail or hand delivered by a  
15 deputy sheriff to the owner of the property and to  
16 such other person as appears to have an interest  
17 therein and shall promptly, but not less than 2 weeks  
18 after notice, hold a hearing on the petition. At such  
19 hearing, the court shall hear evidence and make find-  
20 ings of fact and enter conclusions of law, and shall  
21 thereupon issue a final order, from which the parties  
22 shall have such right of appeal. Such final order  
23 shall provide for disposition of the property by the  
24 State or any subdivision thereof in any manner that  
25 the Legislature or the elected officers of the subdivi-  
26 vision shall decide not prohibited by law, including  
27 official use by an authorized law enforcement or other  
28 public agency, or sale at public auction or by  
29 competitive bidding. The proceeds of any such sale  
30 shall be used to pay the reasonable expenses of the  
31 forfeiture proceedings, seizure, storage, maintenance  
32 of custody, advertising and notice, and to pay any  
33 bonafide mortgage thereon, and the balance, if any,  
34 shall be deposited in the treasury of the State,  
35 county or municipality making such seizure. The dis-  
36 position of money deposited to a county or municipal  
37 treasury shall be as determined by their elected of-  
38 ficers. All moneys money, negotiable instruments, se-  
39 curities, proceeds and other things of value forfeit-  
40 ed pursuant to subsection 1, paragraph C shall be  
41 used to pay the reasonable expenses of the forfeiture  
42 proceedings, seizure, storage, maintenance of custo-  
43 dy, advertising and notice and the balance, if any,  
44 shall be deposited in the General Fund of the State  
45 Treasury.

1

STATEMENT OF FACT

2           Currently, vehicles and money seized in conjunc-  
3 tion with the operation of an illegal drug activity  
4 are forfeited to the State. After paying costs in-  
5 volved with the seizure, the balance remaining from  
6 the vehicular property, with the approval of the lo-  
7 cal elected officers, reverts to the treasury of the  
8 jurisdiction making the seizure. In the case of mon-  
9 ey, the balance remaining reverts to the General  
10 Fund.

11           This bill requires that the balance remaining af-  
12 ter expenses on money seized by a municipality shall  
13 revert to the treasury of the municipality.

14           As a housekeeping issue, this bill changes the  
15 heading for the chapter in which this legislation ap-  
16 pears. The chapter deals with all illegal drugs, but  
17 the chapter is only headed marijuana.

18           Enactment of this bill could result in a signifi-  
19 cant loss of revenue to the General Fund in which the  
20 exact amount can not be determined. The above men-  
21 tioned financial impact is based on the unpredictable  
22 nature of seized money taken in drug cases. Over the  
23 past 2 fiscal years, drug-related seized money depos-  
24 ited in the General Fund of the Treasurer of State  
25 has ranged from \$46,915 in fiscal year 1986 to  
26 \$191,266 in fiscal year 1985. Nevertheless, this po-  
27 tential loss of revenue could involve larger sums of  
28 money in the future.

29

1316040187