

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1516

H.P. 1043

House of Representatives, April 16, 1991

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

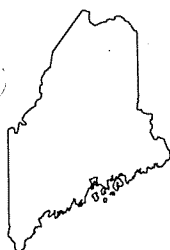
EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by Senator MILLS of Oxford and Representative COTE of Auburn.

STATE OF MAINE

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

An Act to Clarify Statutory Provisions Relating to Asset Forfeiture.



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

2
3 Sec. 1. 15 MRSA §5822, sub-§3, as enacted by PL 1987, c. 420,
4 §2, is amended to read:

6 3. Type of action. The proceeding shall-be-deemed is an in
7 rem a civil action. Property subject to forfeiture may be kept
8 or stored at any location within the territorial boundaries of
9 the State and is subject to the authority of any court in which a
10 petition seeking the forfeiture of that property is filed. The
11 State has the burden of proving all material facts by a
12 preponderance of the evidence and the owner of the property or
13 other person claiming under the property shall-have has the
14 burden of proving by preponderance of the evidence all exceptions
15 set forth in section 5821, except as provided in section 5821,
16 subsection 7, paragraph A.

18 Sec. 2. 15 MRSA §5823, sub-§2, as enacted by PL 1987, c. 420,
19 §2, is amended to read:

20 2. Procedure. The Attorney General or a district attorney
21 upon receiving the seizure vehicle report shall petition, within
22 7 21 days, the Superior Court in the name of the State in the
23 nature of a proceeding in rem to order forfeiture and perfect the
24 State's title to any vehicle subject to forfeiture under section
25 5821. The proceeding shall-be is the same as for forfeited
26 property under section 5822, except that when the owner of the
27 vehicle ~~cannot~~ can not be determined, the court shall:

30 A. Order the State, prior to the forfeiture ~~proceeding~~
31 hearing described in paragraph B, to publish-notice-of-the
32 proceeding--once--each--month--for--6--consecutive--months--in
33 newspapers make service by publication as directed by the
34 court pursuant to the Maine Rules of Civil Procedure, Rule
35 4, except that the publication must be made in a newspaper
36 of general circulation throughout the State; and

38 B. Hold a hearing on the petition not less than 2 weeks
39 after all notices required by this section have been given.

40
41 The final order of forfeiture by the court under this section
42 shall-~~perfect~~ perfects the State's right and interest in and
43 title to the vehicle and shall-~~relate~~ relates back to the date of
44 seizure.

46 **STATEMENT OF FACT**

48 This bill:

50 1. Clarifies the status of existing law by ratifying the
52 practice of allowing the centralized storage of vehicles subject

2 to forfeiture potentially without defeating the in rem
jurisdiction of the court.

4 2. Extends the period in which the Attorney General or the
district attorney may file a forfeiture petition for a vehicle
6 from 7 days to 21 days.

8 3. Adopts the standards for publication contained in the
Maine Rules of Civil Procedure, Rule 4, except that it requires
10 publication in a statewide newspaper. This change acknowledges
the policy determination that a sufficient reason does not exist
12 to require longer notice by publication in cases of forfeiture
than in any other class of civil actions in which persons may be
14 deprived of property.