

# MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

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THE KNOWLTON AND McLEARY COMPANY  
FARMINGTON, MAINE  
1973

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PUBLIC LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature

1973

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5. Application. Notwithstanding any other provision of this section, the Administrative Court Judge may impose a fine or suspend any liquor license. Such fine shall not exceed \$1,000 for any one offense.

Effective October 3, 1973

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## CHAPTER 524

### AN ACT Relating to Forfeiture of All Property Used in Delivering Illegal Drugs.

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

R. S., T. 22, § 2387, additional. Title 22 of the Revised Statutes is amended by adding a new section 2387 to read as follows:

#### § 2387. Forfeiture of all property used in delivering illegal drugs

1. Property forfeited. The following property shall be subject to forfeiture to the State and all property rights therein shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, dispensing, distributing, importing or exporting any substance in violation of sections 2210, 2210-A, 2212-B, 2212-C, 2212-E, 2362, 2362-C, or 2384;

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, dispensing, or distribution of, or possession with intent to manufacture, dispense or distribute a substance in violation of sections 2210, 2210-A, 2212-B, 2212-C, 2212-E, 2362, 2362-C or 2384.

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

3. Exceptions. The court shall order forfeiture of all conveyances subject to subsection 1, paragraph 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 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 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.

C. No conveyance shall be subject to forfeiture unless the owner thereof knew or should have known that such conveyance was used in and for the unlawful manufacturing, dispensing or distributing of any illegal substance covered by the sections referred to in paragraph B of subsection 1. Proof that said conveyance was used on 3 or more occasions for the purpose of unlawfully manufacturing, distributing or dispensing any controlled substance shall be prima facie evidence that said owner knew thereof or should have known thereof.

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 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. 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 bonafide mortgage thereon, and the balance, if 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.