

ACT 122

H.B. NO. 405

A Bill for an Act Relating to Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 199-7, Hawaii Revised Statutes, is amended to read as follows:

“§199-7 [Seizure] Search and seizure; forfeiture of [certain] property. [Any equipment, article, instrument, aircraft, vehicle, or vessel, used or possessed in violation of title 12 and rules adopted thereunder, is declared to be a public nuisance and subject to seizure by any enforcement officer of the department of land and natural resources or by any police officer; and upon conviction of the person having possession or control of such equipment, article, instrument, aircraft, vehicle, or vessel, for a violation of any provision of the laws or rules, the equipment, article, instrument, aircraft, vehicle, or vessel, may be declared by the court to be forfeited to the State in accordance with the procedure set forth in section 701-119. Any equipment, article, instrument, aircraft, vehicle, or vessel so] (a) Any police officer or agent of the department of land and natural resources upon whom the board of land and natural resources has conferred powers of police officers, shall have the authority to conduct searches on probable cause as provided by law and to seize any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resource used or taken in violation of the provisions contained in chapter 6E or title 12, or any rules adopted thereunder. For purposes of this section, “natural resource” includes any archaeological artifacts, minerals, any aquatic life or wildlife or parts thereof, including their eggs, and any land plants or parts thereof, including seeds.

(b) Any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resource seized is subject to forfeiture pursuant to chapter 712A. Notwithstanding section 712A-16 or any other law to the contrary, any natural resource forfeited shall be turned over to the department of land and natural resources for disposition as determined by that department and may be destroyed, if illegal, or may be kept and retained and utilized by the department of land and natural resources or any other state agency, or if not needed or required by the department or other state agency, [shall] may be sold at public auction in the judicial circuit in which it was seized, the auction to be held once annually at a place and time to be designated by the department and notice thereof to be published in a newspaper of general circulation within the judicial circuit at least once before the auction, the first publication to be not less than twenty days prior to the auction. The auction shall be conducted by a person other than an employee of the department but designated by the department.

(c) The department of land and natural resources shall compile a list of all equipment, articles, instruments, aircraft, vehicles, [or] vessels, or any natural resource forfeited as provided in this section and shall publish the list in its annual report.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1989.)