

KSC, TITLE 19. MARINE RESOURCES

Chapter 8. Forfeiture of Property

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Section 19.801. Forfeitures.

(1) Any fishing vessel involved in the commission of any act prohibited by this Title, along with its fishing gear, furniture, appurtenances, stores, or cargo used, is subject to forfeiture to the State.

(2) Any fish taken or retained, in any manner, in connection with, or as a result of, the commission of any act prohibited by this Title is subject to forfeiture to the State.

(3) An action for forfeiture pursuant to Subsection (1) or (2) is a civil proceeding.

Section 19.802. Jurisdiction.

The Kosrae State Court has jurisdiction to order the forfeiture and seizure of anything subject to forfeiture under Section 19.801 upon determining that the forfeiture and seizure is reasonably related to the offense. The Attorney General may initiate an action for forfeiture on behalf of the State. If the court enters judgment for the State in a civil forfeiture proceeding, the Attorney General shall seize any property or other interest declared forfeited to the State that has not previously been seized pursuant to this Title.

Section 19.803. Temporary disposition of property.

Pending completion of the civil forfeiture proceeding, the seized items remain in the State's custody awaiting disposition pursuant to law. At the court's discretion, the seized items may be discharged upon deposit with the court of a satisfactory bond or other security at least equal to the fair market value of the seized property. The bond or other security must be conditional upon delivery of the property to the appropriate court upon order, without any impairment of its value, or paying the monetary value of the property upon order of the court. Judgment must be recoverable on the bond or other security against the principal and any sureties if any condition is breached, as determined by the court.

Section 19.804. Disposition of forfeited property.

The State may sell the forfeited items. The proceeds of any sale must be deposited in the General Fund. In lieu of the sale of forfeited items, the Director may determine that the items be retained for use by, or at the direction of, the State.

Section 19.805. Disposition of perishable articles.

The Director may sell any fish, fish products, or other perishable articles seized pursuant to this Title. If he made all reasonable efforts to sell them but was unable to do so, or where they are unfit to be sold, the Director may dispose of them as he determines appropriate. The proceeds of any such sale must be deposited with the court pending disposition of any legal action or forfeiture proceeding under this Title.

Section 19.806. Disposition of seized goods where no civil forfeiture order has been obtained.

The State shall hold any item seized under this Title, but not ordered forfeited in any legal proceeding, until all fines, orders for costs and damages and penalties imposed under this Title have been paid. If the

finances, costs, damages and penalties are not paid within the time allowed by law, the State shall sell the seized items and return to the owner any balance of the proceeds, after deducting all fines, damages, penalties, and costs, including costs of storage and sale. If a balance remains owing to the State, the owner of the forfeited items remains liable for that balance.

Section 19.807. Unlawful removal of item in State custody.

No person shall remove, without proper authorization, any property seized by the State under this Title. Where any item held or forfeited under this Title has been unlawfully removed from the State's custody, it is subject to seizure at any time.

Section 19.808. Liability of the State for property in custody.

The State is not liable for any loss, damage or deterioration in the condition of any property in its custody pursuant to this Title. The court may order the State to compensate the owner for any proven loss and for costs if it determines that:

- (1) A seizure made under this Title was made without reasonable grounds; and
- (2) As a result of that seizure, the owner or other persons entitled to the property has suffered unreasonable loss.