

CHAPTER 97

NATURAL RESOURCES

SENATE BILL 96-038

BY SENATORS Johnson, Ament, Norton, R. Powers, Tebedo, and Wells;
also REPRESENTATIVES Foster, Entz, Mace, and Young.

AN ACT

CONCERNING PROCEDURES FOR PROPERTY SEIZURES BY THE DIVISION OF WILDLIFE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 16-13-301 (2.7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-13-301. Definitions. As used in this part 3, unless the context otherwise requires:

(2.7) "Seizing agency" means any agency which is charged with the enforcement of the laws of this state, of any other state, or of the United States and which has participated in a seizure or has been substantially involved in effecting a forfeiture through the development of evidence underlying the claim for forfeiture or through legal representation pursuant to this part 3. The department of corrections AND THE DIVISION OF WILDLIFE IN THE DEPARTMENT OF NATURAL RESOURCES shall be deemed to be included under this definition.

SECTION 2. 33-6-102, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

33-6-102. Items constituting public nuisance - when - seizure. (6) THE DIVISION SHALL NOT UNDERTAKE ANY SEIZURE OF PROPERTY PURSUANT TO THIS SECTION UNLESS THE DIVISION HAS COMPLIED WITH PARTS 3 AND 5 OF ARTICLE 13 OF TITLE 16, C.R.S., AS APPLICABLE.

SECTION 3. 33-6-102 (2), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

33-6-102. Items constituting public nuisance - when - seizure. (2) (a) Any personal property subject to seizure, confiscation, and forfeiture or destruction under the provisions of this section, which is seized as a part of or incident to a criminal proceeding for violation of the provisions of articles 1 to 6 of this title and for which disposition is not provided by another statute of this state, shall be disposed of as provided in this section.

(b) (I) THE DIVISION SHALL BE IN VIOLATION OF THIS SECTION IF IT SEIZES ANY PERSONAL PROPERTY THAT IS NOT PART OF OR INCIDENT TO A CRIMINAL PROCEEDING FOR VIOLATION OF ARTICLES 1 TO 6 OF THIS TITLE AND DOES NOT RETURN SUCH PROPERTY ON DEMAND.

(II) IF THE DIVISION VIOLATES SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) OR ANY OTHER PROVISION OF LAW WHEN SEIZING PERSONAL PROPERTY, THE DIVISION SHALL BE CHARGED ONE HUNDRED DOLLARS PER DAY PER VIOLATION PLUS ANY ATTORNEY'S FEES INCURRED BY THE OWNER OF THE PROPERTY.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 17, 1996