

(A) SEIZURE, FORFEITURE, AND DISPOSITION OF DEVICES, EQUIPMENT, OR PROPERTY. — A NATURAL RESOURCES POLICE OFFICER OR ANY LAW ENFORCEMENT OFFICER, UPON ARRESTING ANY PERSON FOR VIOLATING ANY PROVISION OF THIS TITLE OR ANY RULE OR REGULATION PROMULGATED PURSUANT TO IT, MAY SEIZE EVERY DEVICE, EQUIPMENT, CONVEYANCE, OR PROPERTY UNLAWFULLY USED. IF THE OWNER OR PERSON IN CHARGE OF THE SEIZED DEVICE, EQUIPMENT, CONVEYANCE, OR PROPERTY IS CONVICTED, THE COURT MAY DECLARE THE DEVICE, EQUIPMENT, CONVEYANCE, OR PROPERTY FORFEITED IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS TITLE. ANY FORFEITURE BECOMES THE PROPERTY OF THE DEPARTMENT FOR DISPOSITION AT ITS DISCRETION. IF THE OWNER IS NOT KNOWN, THE COURT MAY PROCEED EX PARTE TO HEAR AND DETERMINE ANY QUESTION OF FORFEITURE. IF THE OWNER OR PERSON CHARGED WITH THE VIOLATION IS NOT CONVICTED, THE DEVICE, EQUIPMENT, CONVEYANCE, OR PROPERTY SEIZED SHALL BE RELEASED AND RETURNED TO HIM.

(B) EXCEPTIONS. — HOWEVER, THE DEVICE, EQUIPMENT, CONVEYANCE, OR PROPERTY MAY NOT BE [[SEIZED OR]] FORFEITED IF THE OWNER WAS NOT A CONSENTING PARTY OR PRIVY TO A VIOLATION.

REVISOR'S NOTE: Subsection (a) is new language derived from Article 66C, sections 238, 240, 241, 310, and other similar provisions providing for seizure and forfeiture of unlawfully used devices, equipment, and property. The intent is to set forth a uniform seizure and forfeiture procedure rather than retaining the several different provisions presently scattered throughout Article 66C. Forfeiture is made a discretionary matter of the Court with the use of the word "may". Notwithstanding Article 26, section 155 of the Code which provides that all forfeitures are remitted to the District Court system, this provision declares that forfeitures become property of the department. The District Court system appears ill-equipped to handle these forfeited items. The District Court is not anxious to assume this function and is content to allow the department to appropriately dispose of items. To date, the District Court has not been presented any forfeiture situations.

The department would like to retain some forfeited property for departmental use