

CHAPTER 353
(CORRECTED COPY)

AN ACT concerning all-terrain vehicles and dirt bikes and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2019, c.505 (C.39:3C-35) is amended to read as follows:

C.39:3C-35 Impoundment of certain vehicles, disposition.

1. a. Except as provided in subsection e. of this section, a snowmobile, all-terrain vehicle, or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) shall be impounded by the law enforcing agency and subject to a fee and costs as hereinafter provided:

(1) For a first offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than seven days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs.

(2) For a second or subsequent offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than 14 days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs.

b. If the registered owner of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to subsection a. of this section fails to claim the impounded snowmobile, all-terrain vehicle, or dirt bike and pay all outstanding fees and costs by midnight of the 30th day following the day on which the snowmobile, all-terrain vehicle, or dirt bike was impounded, that snowmobile, all-terrain vehicle, or dirt bike may be sold at public auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the snowmobile or all-terrain vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the Chief Administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the snowmobile, all-terrain vehicle, or dirt bike is impounded.

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

The owner-lessor of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to paragraph (1) or (2) of subsection a. of this section shall be entitled to reclaim possession without payment and the lessee shall be liable for all outstanding fees and costs associated with the impoundment, towing and storage of the snowmobile or all-terrain vehicle.

d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S.2C:64-1 et seq. as authorized by this subsection shall be disposed of in accordance with the provisions of N.J.S.2C:64-6 or, at the discretion of the entity funding the prosecuting agency involved, may be destroyed.

2. N.J.S.2C:64-1 is amended to read as follows:

Property subject to forfeiture.

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances; firearms which are unlawfully possessed, carried, acquired or used; illegally possessed gambling devices; untaxed or otherwise contraband cigarettes or tobacco products; unlawfully possessed container e-liquid; untaxed special fuel; unlawful sound recordings and audiovisual works; and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

(5) An all-terrain vehicle or dirt bike which has been operated on a public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) in a municipality that has passed an ordinance declaring that such all-terrain vehicles or dirt bikes so operated pose an immediate threat to the public health, safety, or welfare and designating such vehicles as contraband as authorized by subsection e. of section 1 of P.L.2019, c.505 (C.39:3C-35).

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in section 1 of P.L.1997, c.57 (C.2C:21-32).

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in section 1 of P.L.1991, c.125 (C.2C:21-21) which were produced in violation of section 1 of P.L.1991, c.125 (C.2C:21-21).

"Unlawfully possessed container e-liquid" means container e-liquid as defined in section 2 of P.L.1990, c.39 (C.54:40B-2) that is possessed for retail sale by a person that is not licensed as a vapor business pursuant to section 4 of P.L.2019, c.147 (C.54:40B-3.3).

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

3. N.J.S.2C:64-6 is amended to read as follows:

Disposal of forfeited property.

2C:64-6. Disposal of Forfeited Property.

a. Property which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare. An all-terrain vehicle or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited may be destroyed, at the discretion of the entity funding the prosecuting agency involved. All other forfeited property or any proceeds resulting from the forfeiture and all money seized pursuant to this chapter shall become the property of the entity funding the prosecuting agency involved and shall be disposed of, distributed, appropriated and used in accordance with the provisions of this chapter.

The prosecutor or the Attorney General, whichever is prosecuting the case, shall divide the forfeited property, any proceeds resulting from the forfeiture or any money seized pursuant to this chapter with any other entity where the other entity's law enforcement agency participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General, whichever is prosecuting the case. Notwithstanding any other provision of law, such forfeited property and proceeds shall be used solely for law enforcement purposes, and shall be designated for the exclusive use of the law enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture.

The Attorney General is authorized to promulgate rules and regulations to implement and enforce the provisions of this act.

b. For a period of two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

c. Beginning two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years, 5% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

4. This act shall take effect immediately.

Approved January 10, 2022.