

SENATE, No. 468

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

Provides for forfeiture of vehicle where weapon was unlawfully possessed.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning forfeiture and amending N.J.S.2C:64-1.

2

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

5

6 1. (New section) The Legislature hereby finds and declares:

7 a. The illegal possession and transportation of firearms within
8 the State of New Jersey poses a serious threat to the health, safety
9 and welfare of the citizens of this State;

10 b. The illegal possession and transportation of firearms in
11 vehicles poses an enhanced risk to the citizens of this State by
12 facilitating the criminal use of the firearms on public roadways and
13 by enabling the spread of firearms within this State;

14 c. An unlawfully-posessed firearm found in a vehicle almost
15 always has either been or is intended to be transported in the
16 vehicle; and

17 d. It is the public policy of this State to aggressively fight the
18 illegal possession and transportation of unlawfully-posessed
19 firearms through forfeiture of the vehicle.

20

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

22 2C:64-1. Property Subject to Forfeiture.

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

25 (1) Controlled dangerous substances, firearms which are
26 unlawfully possessed, carried, acquired or used, illegally possessed
27 gambling devices, untaxed cigarettes, untaxed special fuel, unlawful
28 sound recordings and audiovisual works and items bearing a
29 counterfeit mark. These shall be designated prima facie contraband.

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

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

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

43 (5) A motor vehicle in which a violation of subsection a., b., c.
44 or f. of N.J.S.2C:39-5 was committed.

45 b. Any article subject to forfeiture under this chapter may be
46 seized by the State or any law enforcement officer as evidence

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pending a criminal prosecution pursuant to section 2C:64-4 or,
2 when no criminal proceeding is instituted, upon process issued by
3 any court of competent jurisdiction over the property, except that
4 seizure without such process may be made when not inconsistent
5 with the Constitution of this State or the United States, and when

6 (1) The article is prima facie contraband; or

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

9 c. For the purposes of this section:

10 "Items bearing a counterfeit mark" means items bearing a
11 counterfeit mark as defined in N.J.S.2C:21-32.

12 "Unlawful sound recordings and audiovisual works" means
13 sound recordings and audiovisual works as those terms are defined
14 in N.J.S.2C:21-21 which were produced in violation of
15 N.J.S.2C:21-21.

16 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
17 kerosene on which the motor fuel tax imposed pursuant to
18 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
19 transferred in this State in a manner not authorized pursuant to
20 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).
21 (cf: P.L.2004, c.150, s.3)

22
23 3. This act shall take effect immediately.
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26 STATEMENT
27

28 This bill amends the State's forfeiture law to authorize the
29 forfeiture of a motor vehicle if a weapon is unlawfully possessed in
30 that vehicle.

31 Current law prohibits possession of machine guns, handguns,
32 rifles, shotguns and assault weapons without a license. Under the
33 bill, illegal possession of these guns in a motor vehicle subjects that
34 motor vehicle to forfeiture.

35 The purpose of the bill is to protect the public safety by
36 aggressively fighting the illegal possession and transportation of
37 unlawfully possessed firearms.

38 It is the sponsor's understanding that the forfeiture of a motor
39 vehicle seized under this bill would be subject to the provisions
40 regarding the rights of an innocent owner as set forth in
41 N.J.S.2C:64-5.