## SENATE, No. 569

# **STATE OF NEW JERSEY**

### 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 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.

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

- 1. (New section) The Legislature hereby finds and declares:
- a. The illegal possession and transportation of firearms within the State of New Jersey poses a serious threat to the health, safety and welfare of the citizens of this State;
- b. The illegal possession and transportation of firearms in vehicles poses an enhanced risk to the citizens of this State by facilitating the criminal use of the firearms on public roadways and by enabling the spread of firearms within this State;
- c. An unlawfully-possessed firearm found in a vehicle almost always has either been or is intended to be transported in the vehicle; and
- d. It is the public policy of this State to aggressively fight the illegal possession and transportation of unlawfully-possessed firearms through forfeiture of the vehicle.

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

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

- 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 section 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 N.J.S.2C:21-32.

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

"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.).

(cf: P.L.2004, c.150, s.3)

1 2

3. This act shall take effect immediately.

#### **STATEMENT**

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

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

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

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