

SENATE, No. 4080

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 8, 2021

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Requires certain snowmobiles, all-terrain vehicles, and dirt bikes to be forfeited and destroyed.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2021)

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

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

6
7 1. Section 1 of P.L.2019, c.505 (C.39:3C-35) is amended to
8 read as follows:

9 1. a. A snowmobile, all-terrain vehicle, or dirt bike operated on
10 any public street, highway, or right-of-way in violation of section
11 17 of P.L.1973, c.307 (C.39:3C-17) shall be **[impounded]** by the law
12 enforcing agency and subject to a fee and costs as hereinafter
13 provided:

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

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

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

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

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

7 d. Any proceeds obtained from the sale of a snowmobile, all-
8 terrain vehicle, or dirt bike at public auction pursuant to subsection
9 b. of this section in excess of the amount owed to the impounding
10 entity for the reasonable costs of towing and storage and any fees or
11 other costs associated with the impoundment of the snowmobile,
12 all-terrain vehicle, or dirt bike shall be returned to the owner of that
13 snowmobile, all-terrain vehicle, or dirt bike, if the owner's name
14 and address are known. If the owner's name and address are
15 unknown or the person or entity cannot be located, the net proceeds
16 shall be administered in accordance with the "Uniform Unclaimed
17 Property Act," R.S.46:30B-1 et seq. designated as prima facie
18 contraband subject to forfeiture in accordance with the provisions
19 of N.J.S.2C:64-1 et seq.

20 (cf: P.L.2019, c.505, s.1)

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

23 2C:64-1. Property Subject to Forfeiture.

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

26 (1) Controlled dangerous substances~~[,]~~; firearms which are
27 unlawfully possessed, carried, acquired or used~~[,]~~; illegally
28 possessed gambling devices~~[,]~~; untaxed or otherwise contraband
29 cigarettes or tobacco products~~[,]~~; unlawfully possessed container e-
30 liquid~~[,]~~; untaxed special fuel~~[,]~~; unlawful sound recordings and
31 audiovisual works; snowmobiles, all-terrain vehicles, and dirt bikes
32 operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17);
33 and items bearing a counterfeit mark. These shall be designated
34 prima facie contraband.

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

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

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

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

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

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

11 c. For the purposes of this section:

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

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

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

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

27 (cf: P.L.2019, c.147, s.10)

28
29 3. N.J.S.2C:64-6 is amended to read as follows:

30 2C:64-6. Disposal of Forfeited Property. a. Property which has
31 been forfeited shall be destroyed if it can serve no lawful purpose or
32 it presents a danger to the public health, safety or welfare. A
33 snowmobile, all-terrain vehicle, or dirt bike operated in violation of
34 section 17 of P.L.1973, c.307 (C.39:3C-17) which has been
35 forfeited shall be destroyed. All other forfeited property or any
36 proceeds resulting from the forfeiture and all money seized pursuant
37 to this chapter shall become the property of the entity funding the
38 prosecuting agency involved and shall be disposed of, distributed,
39 appropriated and used in accordance with the provisions of this
40 chapter.

41 The prosecutor or the Attorney General, whichever is
42 prosecuting the case, shall divide the forfeited property, any
43 proceeds resulting from the forfeiture or any money seized pursuant
44 to this chapter with any other entity where the other entity's law
45 enforcement agency participated in the surveillance, investigation,
46 arrest or prosecution resulting in the forfeiture, in proportion to the
47 other entity's contribution to the surveillance, investigation, arrest
48 or prosecution resulting in the forfeiture, as determined in the

1 discretion of the prosecutor or the Attorney General, whichever is
2 prosecuting the case. Notwithstanding any other provision of law,
3 such forfeited property and proceeds shall be used solely for law
4 enforcement purposes, and shall be designated for the exclusive use
5 of the law enforcement agency which contributed to the
6 surveillance, investigation, arrest or prosecution resulting in the
7 forfeiture.

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

10 b. For a period of two years from the date of enactment of
11 P.L.1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds
12 obtained by the Attorney General under the provisions of subsection
13 a. of this section shall be deposited into the Hepatitis Inoculation
14 Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-
15 100.13).

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

22 (cf: P.L.1993, c.227, s.1)

23
24 4. This act shall take effect on the first day of the fourth month
25 after enactment.

26 27 28 STATEMENT

29
30 This bill requires certain snowmobiles, all-terrain vehicles, and
31 dirt bikes to be forfeited and destroyed.

32 Under current law, snowmobiles, all-terrain vehicles, and dirt
33 bikes that are operated illegally are subject to impoundment and are
34 released to the owner upon proof of registration and insurance and
35 payment of a fee, plus towing and storage costs.

36 Under the provisions of this bill, instead of being subject to
37 impoundment and released upon payment of a fee and towing and
38 storage costs, a snowmobile, all-terrain vehicle, or dirt bike that is
39 operated illegally is to be designated as prima facie contraband that
40 is subject to civil asset forfeiture under current law.

41 Further, under current law, property which has been forfeited
42 under the civil asset forfeiture law is destroyed if it can serve no
43 lawful purpose or it presents a danger to the public health, safety, or
44 welfare. This bill requires an illegally operated snowmobile, all-
45 terrain vehicle, or dirt bike which was forfeited under the civil asset
46 forfeiture law to also be destroyed.