

§2421. Forfeiture of motor vehicles for OUI

1. Forfeiture. After notice and hearing, a motor vehicle must be forfeited to the State when a defendant is:

- A. The sole owner-operator of that vehicle; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]
- B. Convicted of:
 - (1) OUI; and
 - (2) A simultaneous offense of operating after suspension when the underlying suspension was imposed for a prior OUI conviction. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

The court shall order the forfeiture unless another person satisfies the court prior to the judgment and by a preponderance of the evidence that the other person had a right to possess that motor vehicle, to the exclusion of the defendant, at the time of the offense.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

2. Seizure of vehicle of owner-operator. A motor vehicle operated by a sole owner is subject to seizure by a law enforcement officer when:

- A. The owner-operator operates or attempts to operate that motor vehicle under the influence of intoxicating liquor or drugs or while having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; and [PL 2009, c. 447, §43 (AMD).]
 - B. The owner-operator is under suspension or revocation as a result of a previous conviction of operating under influence of alcohol or drugs or while having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. [PL 2009, c. 447, §43 (AMD).]
- [PL 2009, c. 447, §43 (AMD).]

3. Lienholders. A forfeiture of a motor vehicle encumbered by a perfected bona fide security interest is subject to the interest of the secured party if the party did not have knowledge of the act on which the forfeiture is based.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

4. Preliminary order. At the request of the State, the court may issue, ex parte, a preliminary order to seize or secure a motor vehicle subject to forfeiture and to provide for custody.

That order may include an order to a financial institution or to any fiduciary or bailee to impound the vehicle in its possession or control and to release the vehicle only on further order of the court.

The court may issue an order only on a showing of probable cause and after criminal complaints of OUI and OAS have been filed against the owner-operator.

The application, issuance, execution and return of an order are subject to applicable state law.

A law enforcement officer may seize a motor vehicle without court order when:

- A. The seizure is incident to an arrest with probable cause for an OUI by the sole owner and the officer has probable cause to believe the vehicle is subject to forfeiture; or [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]
 - B. The vehicle has been subject of a prior judgment in favor of the State in a forfeiture proceeding under this section or any other provision of law. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]
- [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

5. Reports. An officer, department or agency seizing a vehicle shall file a report of seizure with the Attorney General or a district attorney having jurisdiction over the vehicle. The report must be:

A. Filed within 21 days of the date of seizure; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

B. Labeled "Vehicle Report" and include, without limitation:

(1) A description of the vehicle;

(2) The place and date of seizure;

(3) The name and address of the owner or operator of the vehicle at the time of seizure; and

(4) The name and address of any other person who appears to have an ownership interest in the vehicle. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

6. Storage of seized motor vehicles. A seized motor vehicle must be held in secure storage by the seizing agency or at the direction of the prosecuting official until disposition of the underlying criminal charges. The State shall assume all costs of storage of a vehicle not forfeited.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

7. Records of seized motor vehicles. An officer, department or agency having custody of a motor vehicle subject to forfeiture or having disposed of the vehicle shall maintain complete records showing:

A. From whom the motor vehicle was received; [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

B. Under what authority the motor vehicle was held, received or disposed of; [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

C. To whom the motor vehicle was delivered; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

D. The date and manner of destruction or disposition of the motor vehicle. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

8. Rules. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, for the disposition to state, county and municipal agencies of forfeited motor vehicles.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF). PL 2009, c. 447, §43 (AMD).

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