

## 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 and untaxed special fuel. 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.

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: "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.).

Amended 1979,c.344,s.1; 1981,c.290,s.46; 1992,c.23,s.70.

2C:64-2. Forfeiture procedures; prima facie contraband Forfeiture Procedures; Prima Facie Contraband.

Except as provided in N.J.S. 2C:35-21, prima facie contraband shall be retained by the State until entry of judgment or dismissal of the criminal proceeding, if any, arising out of the seizure.

Thereafter, prima facie contraband shall be forfeited to the entity funding the prosecuting agency involved, subject to the rights of owners and others holding interests pursuant to section 2C:64-5.

Amended by L. 1979, c. 344, s. 2; 1981, c. 290, s. 47; 1987, c. 106, s. 17.

2C:64-3. Forfeiture procedures 2C:64-3. Forfeiture procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 90 days of the seizure and commenced by the State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations

setting forth the reason or reasons the article sought to be or which has been seized is contraband.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation, and shall state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the

court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency, or any other entity, with the approval of the prosecuting agency, where the other entity's law enforcement agency participated in the surveillance, investigation or arrest which is the subject of the forfeiture action, may apply to the Superior Court for an order permitting use of seized property, pending the disposition of the forfeiture action provided, however, that such property shall be used solely for law enforcement purposes. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided an integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

Amended 1979,c.344,s.3; 1981,c.290,s.48; 1989,c.279,s.1.

2C:64-4. Seized property; evidentiary use a. Nothing in this chapter shall impair the right of the State to retain evidence pending a criminal prosecution.

b. The fact that a prosecution involving seized property terminates without a conviction does not

preclude forfeiture proceedings against the property pursuant to this chapter.

L.1978, c. 95, s. 2C:64-4, eff. Sept. 1, 1979. Amended by L.1979, c. 344, s. 4, eff. Jan. 23, 1980;  
L.1981, c. 290, s. 49, eff. Sept. 24, 1981.

2C:64-5. Seized property; rights of owners and others holding interests Seized Property; Rights of Owners and Others Holding Interests. a. No forfeiture under this chapter shall affect the rights of any lessor in the ordinary course of business or any person holding a perfected security interest in property subject to seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. Such rights are only to the extent of interest in the seized property and at the option of the entity funding the prosecuting agency involved may be extinguished by appropriate payment.

b. Property seized under this chapter shall not be subject to forfeiture if the owner of the property establishes by a preponderance of the evidence that the owner was not involved in or aware of the unlawful activity and that the owner had done all that could reasonably be expected to prevent the proscribed use of the property by an agent. A person who uses or possesses property with the consent or knowledge of the owner is deemed to be the agent of the owner for purposes of this chapter.

c. Property seized under this chapter shall not be subject to forfeiture if the property is seized while entrusted to a person by the owner or the agent of the owner when the property has been entrusted to the person for repairs, restoration or other services to be performed on the property, and that person, without the owner's knowledge or consent, uses the property for unlawful purposes.

L. 1978, c. 95, s. 2C:64-5, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 5, eff. Jan. 23,

1980; L. 1981, c. 290, s. 50, eff. Sept. 24, 1981; L. 1986, c. 79, s. 1, eff. Aug. 6, 1986.

2C:64-6. 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. 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).

Amended 1979,c.344,s.6; 1985,c.110,s.1; 1986,c.135,s.1; 1993,c.227,s.1.

2C:64-7. Vesting of title in forfeited property Vesting of Title in Forfeited Property. Title to property forfeited under this chapter shall vest in the entity funding the prosecuting agency involved at the time the item was utilized illegally, or, in the case of proceeds, when received.

If another entity's law enforcement agency has participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall vest title to forfeited property, including motor vehicles, by dividing the forfeited property with the other entity 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. If the property, including motor vehicles, cannot be divided as required by this section, then the prosecutor or the Attorney General, whichever is prosecuting the case, shall sell the property, including motor vehicles, and the proceeds of the sale shall be divided with the other entity 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.

L. 1978, c. 95, s. 2C:64-7, eff. Sept. 1, 1979. Amended by L. 1979, c. 344, s. 7, eff. Jan. 23, 1980; L. 1985, c. 110, s. 2, eff. April 9, 1985; L. 1986, c. 135, s. 2, eff. Dec. 1, 1986.

2C:64-8. Seized property; statute of limitations on claims Any person who could not with due diligence have discovered that property which he owns was seized as contraband may file a

claim for its return or the value thereof at the time of seizure within 3 years of the seizure if he can demonstrate that he did not consent to, and had no knowledge of its unlawful use. If the property has been sold, the claimant receives a claim against proceeds.

L.1978, c. 95, s. 2C:64-8, eff. Sept. 1, 1979. Amended by L.1979, c. 344, s. 8, eff. Jan. 23, 1980.

2C:64-9. Forfeited weapons with military value; donation to National Guard Militia Museum  
Any weapon with present or historical military value that has been forfeited pursuant to the provisions of chapter 64 of Title 2C of the New Jersey Statutes may be donated to the National Guard Militia Museum of New Jersey at Sea Girt by the law enforcement agency retaining it.

L.1981, c. 112, s. 1, eff. April 2, 1981. 2C:65-1. Procedure to be followed by law enforcement agencies when stolen property is taken into custody  
When any article of property alleged to be stolen comes into the custody of a law enforcement agency, that agency shall enter in a suitable book a description of that article and shall attach a number to each article, and make a corresponding entry thereof. The agency shall also make and retain a complete photographic record of the property. The photographic record, upon proper authentication, may be introduced as evidence in any court in lieu of the property.

L.1979, c. 178, s. 140, eff. Sept. 1, 1979.

2C:65-2. Release of stolen property prior to final determination of proceeding  
a. A law enforcement agency, upon satisfactory proof of ownership of property held pursuant to this section, and upon presentation of proper personal identification, may release the property to the person presenting such proof pursuant to the provisions of subsection b. The release shall be without prejudice to the State or to the person from whom custody of the property was taken or to any person who may have a claim against the property. Any such delivery shall be noted in the book required by 2C:65-1. The person to whom the property is delivered shall sign a sworn

declaration of ownership which shall be retained by the agency.

b. Nothing in this section shall prohibit a law enforcement agency from immediately returning property to its rightful owner where the agency is satisfied that there is no colorable dispute as to ownership; provided, however, that where the law enforcement agency has reason to believe that there is a dispute concerning ownership of property, or if the person from whom custody of the property was taken shall claim ownership, or if any other person shall claim ownership, the property shall not be released to any person claiming it until a hearing has been held pursuant to subsection c.

c. The court having jurisdiction over the case in which the stolen property is involved, upon application by the person from whom possession was taken, or the person claiming ownership, shall review the matter and order the property to be delivered to the person claiming ownership, or to be retained by the law enforcement agency upon a finding that the person claiming ownership of the property is not entitled thereto.

L.1979, c. 178, s. 140, eff. Sept. 1, 1979. Amended by L.1981, c. 290, s. 51, eff. Sept. 24, 1981.

2C:65-3. Disposition of stolen property after final determination of proceeding a. After final determination of any action or proceeding, the court, on application of the person claiming ownership, or an agent designated in writing by the person, may order all property, other than documentary exhibits, to be delivered to the person.

b. After the expiration of 6 months from the final determination of the action, if the person entitled to the property is unknown, or fails to apply, the court in which the case was tried, upon application of the law enforcement agency in possession of the property, shall make an order specifying what property may be released from the custody of the agency without prejudice to the State. Upon receipt of the order, the clerk of the court shall transfer the property for disposal

at public sale to the State, county or municipality, whichever was the prosecuting authority. The property shall not be transferred where it consists of money or currency, but it shall be deposited immediately in the general fund of either the State, county or municipality.

L.1979, c. 178, s. 140, eff. Sept. 1, 1979.

2C:65-4. Disposition of documentary exhibits No exhibit shall be destroyed or otherwise disposed of until 60 days after the clerk of the court has posted a notice conspicuously in three places in the county, referring to the order for the disposition, describing briefly the exhibit, and indicating the date after which the exhibit will be destroyed or otherwise disposed of.

L.1979, c. 178, s. 140, eff. Sept. 1, 1979.

2C:66-1. Attachment of deposited funds of suspected terrorists or their supporters 1.Attachment of deposited funds.

a.As used in this act:

"Financial institution" means a state or federally chartered bank, savings bank or savings and loan association or any other financial services company or provider, including, but not limited to, broker-dealers, investment companies, money market and mutual funds, credit unions and insurers.

b.Upon application by the Attorney General, a court may issue an attachment order directing a financial institution to freeze some or all of the funds or assets deposited with or held by the financial institution by or on behalf of an account holder when there exists a reasonable suspicion that the account holder has committed or is about to commit the crime of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or soliciting or providing material support or

resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5).

L.2003,c.22,s.1.

2C:66-2. Application by Attorney General 2.Application. The application of the Attorney General required by this act shall contain:

a.a statement of the approximate financial loss caused by the account holder in the commission of the crime of terrorism in violation of section 2 of P.L.2002, c 26 (C.2C:38-2) or soliciting or providing material support or resources for terrorism in violation of section 5 of P.L.2002, c.26 (C.2C:38-5);

b.a statement of facts relied upon by the Attorney General, including the details of the particular offense that is about to be committed or that has been committed; and

c.identification of the account holder's name and financial institution account number.

L.2003,c.22,s.2.