39:3C-35, 2C:64-1, 2C:64-6
LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

LAWS OF: 2021 **CHAPTER:** 353

NJSA: 39:3C-35, 2C:64-1, 2C:64-6 (Authorizes municipalities to address certain unlawful operation of all-terrain vehicles and dirt bikes through seizure and, in some circumstances, destruction of vehicles.)

BILL NO: S4080 (Substituted for A6088 (ACS))

SPONSOR(S) Cruz-Perez, Nilsa I. and others

DATE INTRODUCED: 11/8/2021

COMMITTEE: **ASSEMBLY:** ---

SENATE: State Government, Wagering, Tourism & Historic Preservation
Budget & Appropriations

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 12/20/2021

SENATE: 12/20/2021

DATE OF APPROVAL: 1/10/2022

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Senate Committee Substitute enacted) Yes

S4080

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes State Gov., Wagering, Tourism & Hist. Preservation
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A6088 (ACS)

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Transportation &

Independent

Authorities

Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or mailto:refdesk@njstatelib.org

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 2021, CHAPTER 353, ***approved January 10, 2022***
Senate Committee Substitute for
Senate, No. 4080

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

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

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

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

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

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

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

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-

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.

terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

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

d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S.2C:64-1 et seq. as authorized by this subsection shall be disposed of in accordance with the provisions of N.J.S.2C:64-6 or, at the discretion of the entity funding the prosecuting agency involved, may be destroyed.

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

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 or otherwise contraband cigarettes or tobacco products**[**,**]**; unlawfully possessed container e-liquid**[**,**]**; 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.

(5) An all-terrain vehicle or dirt bike which has been operated on a public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) in a municipality that has passed an ordinance declaring that such all-terrain vehicles or dirt bikes so operated pose an immediate threat to the public health, safety, or welfare and designating such vehicles as contraband as authorized by subsection e. of section 1 of P.L.2019, c.505 (C.39:3C-35).

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⟧ N.J.S.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⟧ section 1 of P.L.1997, c.57 (C.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⟧ section 1 of P.L.1991, c.125 (C.2C:21-21) which were produced in violation of ⟦N.J.S.2C:21-21⟧ section 1 of P.L.1991, c.125 (C.2C:21-21).

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

"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.2019, c.147, s.10)

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

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. An all-terrain vehicle or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited may be destroyed, at the discretion of the entity funding the prosecuting agency involved. 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).
(cf: P.L.1993, c.227, s.1)

4. This act shall take effect immediately.

Authorizes municipalities to address certain unlawful operation of all-terrain vehicles and dirt bikes through seizure and, in some circumstances, destruction of vehicles.

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)

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

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

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

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

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

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

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

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing 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 <u>thus</u> is new matter.

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

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

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

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 or otherwise contraband cigarettes or tobacco products**[**,**]**; unlawfully possessed container e-liquid**[**,**]**; untaxed special fuel**[**,**]**; unlawful sound recordings and audiovisual works<u>; snowmobiles, all-terrain vehicles, and dirt bikes operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17);</u> 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.

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.

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

"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.2019, c.147, s.10)

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

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. <u>A snowmobile, all-terrain vehicle, or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited shall be destroyed.</u> 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).

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

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

STATEMENT

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

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

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

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

SENATE STATE GOVERNMENT, WAGERING, TOURISM & HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 4080

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 2021

The Senate State Government, Wagering, Tourism, and Historic Preservation Committee reports favorably Senate Bill No. 4080.

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

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

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

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 4080

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 4080.

This Senate Committee Substitute authorizes municipalities to adopt an ordinance declaring that an all-terrain vehicle (ATV) or dirt bike unlawfully operated on any public street, highway, or right-of-way is an immediate threat to the public health, safety, and welfare and to designate the ATVs or dirt bikes as contraband subject to forfeiture pursuant to current law.

The committee substitute provides that an ATV or dirt bike forfeited under the bill is to be disposed of in accordance with State law on disposal of forfeited property or, at the discretion of the entity funding the prosecuting agency, destroyed.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 4080
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: DECEMBER 16, 2021

SUMMARY

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

Type of Impact: Annual State and local government expenditure increases; annual State and local government revenue decreases.

Agencies Affected: Department of Law and Public Safety; county and municipal law enforcement agencies.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Decrease	Indeterminate
Local Government Expenditure Increase	Indeterminate
Local Government Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) finds that to the extent the bill will result in an increase in the number of forfeited and destroyed snowmobiles, all-terrain vehicles, and dirt bikes, there may be an indeterminate cost increase to the State and local governments when compared to the current impoundment process.

- Depending on operating decisions by affected law enforcement agencies and the number of forfeited and destroyed snowmobiles, all-terrain vehicles, and dirt bikes, the bill may result in an indeterminate decrease in annual State and local government revenue collections from impoundment-related administrative, towing, and storage fees.

BILL DESCRIPTION

This bill requires certain snowmobiles, all-terrain vehicles, and dirt bikes to be forfeited and destroyed. Under current law, snowmobiles, all-terrain vehicles, and dirt bikes that are operated illegally are subject to impoundment and are released to the owner upon proof of registration and insurance and payment of a fee, plus towing and storage costs. Under the provisions of this bill,

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

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

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that to the extent the bill will result in an increase in the number of forfeited and destroyed snowmobiles, all-terrain vehicles, and dirt bikes, there may be an indeterminate cost increase to the State and local governments when compared to the current impoundment process.

Currently, snowmobiles, all-terrain vehicles, and dirt bikes which are subject to impoundment may be released to the owner upon proof of registration and insurance and payment of a fee, plus towing and storage costs. This bill would eliminate the option for the impoundment of the snowmobiles, all-terrain vehicles, and dirt bikes. Instead, the item would be forfeited and destroyed. Under current law, property which has been forfeited under the civil asset forfeiture law is destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety, or welfare. This bill requires the destruction of the item so it may not be recovered or used again. The OLS does not have access to the number of snowmobiles, all-terrain vehicles, and dirt bikes annually impounded in New Jersey to determine the magnitude of any cost increases.

Additionally, depending on operating decisions by affected law enforcement agencies and the number of forfeited and destroyed snowmobiles, all-terrain vehicles, and dirt bikes, the bill may result in an indeterminate decrease in annual State and local government revenue collections from foregone impoundment-related administrative, towing, and storage fees.

Section:	*Law and Public Safety*
Analyst:	*Kristin Brunner Santos* *Lead Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 6088

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 2, 2021

Sponsored by:
Assemblyman WILLIAM W. SPEARMAN
District 5 (Camden and Gloucester)
Assemblyman WILLIAM F. MOEN, JR.
District 5 (Camden and Gloucester)
Assemblywoman VERLINA REYNOLDS-JACKSON
District 15 (Hunterdon and Mercer)

Co-Sponsored by:
Assemblywoman McKnight

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: 12/9/2021)

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

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

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

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

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

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

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

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing 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 <u>thus</u> is new matter.

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

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

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

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 or otherwise contraband cigarettes or tobacco products**[**,**]**; unlawfully possessed container e-liquid**[**,**]**; untaxed special fuel**[**,**]**; unlawful sound recordings and audiovisual works<u>; snowmobiles, all-terrain vehicles, and dirt bikes operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17);</u> 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.

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.

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

"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.2019, c.147, s.10)

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

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. <u>A snowmobile, all-terrain vehicle, or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited shall be destroyed.</u> 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).

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

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

STATEMENT

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

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

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

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

ASSEMBLY TRANSPORTATION AND INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 6088

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2021

The Assembly Transportation and Independent Authorities Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 6088.

As substituted, this bill authorizes municipalities to adopt an ordinance declaring that an all-terrain vehicle (ATV) or dirt bike unlawfully operated on any public street, highway, or right-of-way is an immediate threat to the public health, safety, and welfare and to designate the ATVs or dirt bikes as contraband subject to forfeiture pursuant to law. The bill provides that an ATV or dirt bike forfeited under the bill is to be disposed of in accordance with State law on disposal of forfeited property or, at the discretion of the entity funding the prosecuting agency, destroyed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 6088

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably the Assembly Committee Substitute for Assembly Bill No. 6088.

This bill authorizes municipalities to adopt an ordinance declaring that an all-terrain vehicle (ATV) or dirt bike unlawfully operated on any public street, highway, or right-of-way is an immediate threat to the public health, safety, and welfare and to designate the ATVs or dirt bikes as contraband subject to forfeiture pursuant to law. The bill provides that an ATV or dirt bike forfeited under the bill is to be disposed of in accordance with State law on disposal of forfeited property or, at the discretion of the entity funding the prosecuting agency, destroyed.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.