

CHAPTER 65

AN ACT concerning all-terrain vehicles and dirt bikes and amending P.L.2013, c.110.

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

1. Section 1 of P.L.2013, c.110 (C.2C:43-2.4) is amended to read as follows:

C.2C:43-2.4 Authority to impound motor vehicles.

1. a. Any law enforcement agency is authorized to impound:

(1) a motor vehicle in which a violation of subsection a., d., or f. of N.J.S.2C:39-5 was committed;

(2) a motor vehicle in which possession of a handgun, rifle, or shotgun for an unlawful purpose in violation of N.J.S.2C:39-4 was committed;

(3) a motor vehicle in which a violation of subsection b. or c. of N.J.S.2C:39-5 was committed in addition to the motor vehicle being used to commit a separate crime of the first, second, third, or fourth degree under Title 2C of the New Jersey Statutes;

(4) a motor vehicle which was used in the commission of any offense under subsection b. of N.J.S.2C:34-1; and

(5) a motor vehicle which was used in the commission of an offense under subsection a. of N.J.S.2C:35-10 or subsection a. of N.J.S.2C:35-5.

For the purposes of this section, a motor vehicle includes an all-terrain vehicle and a dirt bike. An "all-terrain vehicle" means a motor vehicle, designed to travel over any terrain, of a type possessing between three and six non-highway tires, but shall not include golf carts. A "dirt bike" means a motor powered vehicle possessing two or more tires, designed to travel over any terrain and capable of traveling off paved roads, whether or not the vehicle is subject to registration with the New Jersey Motor Vehicle Commission.

b. A law enforcement agency impounding a vehicle pursuant to this section is authorized to charge a reasonable administrative fee in addition to the fees charged for the towing and storage of the impounded vehicle. The law enforcement agency is further authorized to retain custody of the vehicle until the fees are paid. All administrative fees and towing and storage fees shall be imposed on the registered owner of the motor vehicle. The registered owner shall be entitled to a hearing, upon request.

The administrative fees shall be collected by and paid to the municipality imposing the fees. The towing and storage fees shall be collected by and paid to the person or entity that tows and stores the impounded vehicle.

c. The registered owner of the vehicle shall be provided notice of the impoundment and the right to request a hearing.

d. If the owner-lessor or registered owner of an impounded vehicle fails to claim the impounded vehicle by midnight of the 90th day following the day on which the vehicle was impounded, that vehicle may be sold at auction; provided however, a vehicle shall not be sold until the lessee or registered owner has been convicted of the offense, or offenses pursuant to paragraph (3) of subsection a., for which the vehicle was impounded under subsection a. of this section. Property impounded under this section shall not be sold 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 subsection.

Notice of the sale shall be given by the impounding entity by certified mail to the owner of the vehicle, if the owner's name and address are known, and to the lienholder, if the

lienholder's name and address are known, 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 vehicle is impounded.

At any time prior to the sale of an impounded vehicle, the owner or other person entitled to the vehicle may reclaim possession upon showing proof of registration and insurance and paying all costs associated with the impoundment, and reasonable towing and storage fees and administrative fees.

The owner-lessor of an impounded vehicle shall be entitled to reclaim possession without payment or proof of insurance and the lessee shall be liable for all outstanding costs associated with the impoundment, towing, and storage of the vehicle and the administrative fees.

e. Any proceeds obtained from the sale of a vehicle at public auction pursuant to subsection d. of this section in excess of the amount owed for the administrative fees, towing, and storage fees and any other costs associated with the impoundment of the vehicle shall be returned to the owner of that vehicle, if the owner's name and address are known.

f. Nothing in this section shall be construed to in any way limit or abridge the authority provided by N.J.S.2C:64-1 et seq. or any other law regarding forfeiture.

2. This act shall take effect immediately.

Approved July 20, 2018.