

§5821. Subject property

Except as provided in section 5821-A or 5821-B, the following are subject to forfeiture to the State and no property right may exist in them if the owner of the following is convicted of a crime in which the following was involved: [PL 2021, c. 454, §1 (AMD).]

1. Scheduled drugs. All scheduled drugs that have been manufactured, made, created, grown, cultivated, sold, bartered, traded, furnished for consideration, furnished, distributed, dispensed, possessed or otherwise acquired in violation of any law of this State, any other state or of the United States;
[PL 2013, c. 194, §1 (AMD).]

2. Materials related to scheduled drugs. All raw materials, products and equipment of any kind that are used or intended for use in manufacturing, compounding, processing, delivering, cultivating, growing or otherwise creating any scheduled drug in violation of any law of this State, any other state or the United States;
[PL 2013, c. 194, §1 (AMD).]

3. Other property. All property which is used or intended for use as a container for property described in subsection 1 or 2, and all property which is used or intended for use to defend, protect, guard or secure any property or items described in subsection 1 or 2;
[PL 1989, c. 448, §1 (AMD).]

3-A. Firearms and other weapons. Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs in which scheduled drugs are found. Except for weapons declared by a court to be forfeited in accordance with section 5826, subsection 9, if the owner of a seized firearm or dangerous weapon is convicted of a crime in which the firearm or dangerous weapon was involved, after notice and opportunity for hearing the firearm or dangerous weapon must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon may not be forfeited unless the State satisfies the court, by a preponderance of evidence, that the owner of the firearm or dangerous weapon was convicted of a crime in which the firearm or dangerous weapon was involved.

- A. [PL 2021, c. 454, §2 (RP).]
- B. [PL 2021, c. 454, §2 (RP).]
- C. [PL 2021, c. 454, §2 (RP).]

Post-hearing procedures are as provided in section 5822.

A confiscated or forfeited firearm that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the firearm was stolen and the rightful owner was not the person who committed the homicide, in which case the firearm must be returned to the owner if ascertainable;
[PL 2021, c. 454, §2 (AMD).]

3-B. Forfeiture of firearms used in the commission of certain acts. In addition to the provisions of subsection 3-A and Title 17-A, section 1504, this subsection controls the forfeiture of firearms used in the commission of certain acts.

- A. Except as provided in paragraph B, a firearm is subject to forfeiture to the State if the firearm is used by a person who is the owner of the firearm to commit a criminal act that in fact causes serious bodily injury or death to another human being and, following that act, the person either commits suicide or attempts to commit suicide and the attempt results in the person's becoming incompetent to stand trial or the person is killed or rendered incompetent to stand trial as the result

of a justifiable use of deadly force by a law enforcement officer. Except as provided in paragraph B, a property right does not exist in the firearm subject to forfeiture. [PL 2021, c. 454, §3 (AMD).]

B. A firearm that is used in the commission of a criminal act described in paragraph A is exempt from forfeiture under this subsection if the firearm belongs to another person who is the rightful owner from whom the firearm has been stolen and the other person is not a principal or accomplice in the criminal act. In that case, the firearm must be transferred to the other person unless that person is otherwise prohibited from possessing a firearm under applicable law. [PL 2013, c. 328, §2 (NEW).]

A firearm subject to forfeiture pursuant to this subsection that is declared by a court to be forfeited pursuant to section 5826, subsection 9 must be promptly destroyed, or caused to be promptly destroyed, by the law enforcement agency that has custody of the firearm; [PL 2021, c. 454, §3 (AMD).]

4. Conveyances. All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use to transport or in any manner to facilitate the transportation, sale, trafficking, furnishing, receipt, possession or concealment of property described in subsection 1 or 2, except that:

A. No conveyance used by any person as a common carrier in the transaction of business as a common carrier may be forfeited under this section, unless it appears that the owner or other person in charge of the conveyance was a consenting party or had knowledge of that violation of law; and [PL 1987, c. 420, §2 (NEW).]

B. No conveyance may be forfeited under this section by reason of any act or omission established by the owner of the conveyance to have been committed or omitted by any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this State, any other state or of the United States; [PL 1987, c. 420, §2 (NEW).]

[PL 1987, c. 420, §2 (NEW).]

4-A. Conveyances used in violation of litter laws. All conveyances, including aircraft, watercraft, vehicles, vessels, containers or cranes that are used, or attempted to be used, to dump more than 500 pounds or more than 100 cubic feet of litter in violation of Title 17, section 2264-A; [PL 2003, c. 452, Pt. I, §1 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Records. All books, records and research, including formulas, microfilm, tapes and data, which are used or intended for use in violation of Title 17-A, chapter 45; [PL 1987, c. 420, §2 (NEW).]

6. Money instruments. Except as provided in paragraph A, all money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a scheduled drug in violation of Title 17-A, chapter 45; all proceeds traceable to such an exchange; and all money, negotiable instruments and securities used or intended to be used to facilitate any violation of Title 17-A, chapter 45.

A. No property may be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner; [PL 1989, c. 302, §1 (AMD).]

[PL 2013, c. 194, §3 (AMD).]

7. Real property. Except as provided in paragraph A, all real property, including any right, title or interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended for use, in any manner or part, to commit or to facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C that is a Class A, Class B or Class C crime, with the exception of offenses involving marijuana.

A. Property may not be forfeited under this subsection, to the extent of an interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner. When an owner of property that is that person's primary residence proves by a preponderance of the evidence that the owner is the spouse or minor child of the coowner of the primary residence who has used or intended to use the residence, in any manner or part, to commit or facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C, the State shall bear the burden of proving knowledge or consent of the spouse or minor child by a preponderance of the evidence; [PL 2013, c. 194, §4 (AMD).]

[PL 2013, c. 194, §4 (AMD).]

7-A. Computers. Computers, as defined in Title 17-A, section 431, subsection 2, and computer equipment, including, but not limited to, printers and scanners, that are used or are attempted to be used in violation of Title 17-A, section 259-A;

A. [PL 2021, c. 454, §4 (RP).]

[PL 2021, c. 454, §4 (AMD).]

8. Bona fide lienholders.

[PL 2007, c. 684, Pt. C, §1 (RP); PL 2007, c. 684, Pt. H, §1 (AFF).]

9. Assets in human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C;

[PL 2019, c. 97, §2 (AMD).]

10. Assets in sex trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to an aggravated sex trafficking offense as defined in Title 17-A, section 852 or a sex trafficking offense as defined in Title 17-A, section 853; and [PL 2019, c. 97, §3 (NEW).]

11. Assets in criminal forced labor offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a criminal forced labor offense as defined in Title 17-A, section 304 or an aggravated criminal forced labor offense as defined in Title 17-A, section 305.

[PL 2019, c. 97, §3 (NEW).]

A forfeiture under this section of property encumbered by a perfected bona fide security interest is subject to the interest of the secured party if the party neither had knowledge of nor consented to the act or omission upon which the right of forfeiture is based. [PL 2007, c. 684, Pt. C, §3 (NEW); PL 2007, c. 684, Pt. H, §1 (AFF).]

Unless seized property under this section includes United States currency in excess of \$100,000, a law enforcement agency, prosecuting authority, state agency, county or municipality may not enter into an agreement to transfer or refer property seized under this section to a federal agency directly, indirectly, through adoption, through an intergovernmental joint task force or by other means that circumvent the provisions of this section. [PL 2021, c. 454, §5 (NEW).]

SECTION HISTORY

PL 1987, c. 420, §2 (NEW). PL 1989, c. 302, §§1-3 (AMD). PL 1989, c. 448, §§1,2 (AMD). PL 1989, c. 820, §1 (AMD). IB 1999, c. 1, §2 (AMD). PL 1999, c. 349, §§1,2 (AMD). PL 2001, c. 348, §2 (AMD). PL 2003, c. 452, §11 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 688, §B2 (AMD). PL 2007, c. 684, Pt. C, §§1-3 (AMD). PL 2007, c. 684, Pt. H, §1 (AFF). PL 2011, c. 465, §§1-4 (AMD). PL 2011, c. 597, §1 (AMD). PL 2013, c. 194, §§1-4 (AMD). PL 2013, c. 328, §§1, 2 (AMD). PL 2013, c. 588, Pt. A, §19 (AMD). PL 2017, c. 409, Pt. B, §1 (AMD). PL 2019, c. 97, §§1-3 (AMD). PL 2019, c. 113, Pt. C, §52 (AMD). PL 2021, c. 454, §§1-5 (AMD).

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