

[Second Reprint]

ASSEMBLY, No. 5511

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 6, 2019

Sponsored by:

Assemblyman WILLIAM W. SPEARMAN

District 5 (Camden and Gloucester)

Assemblywoman PATRICIA EGAN JONES

District 5 (Camden and Gloucester)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

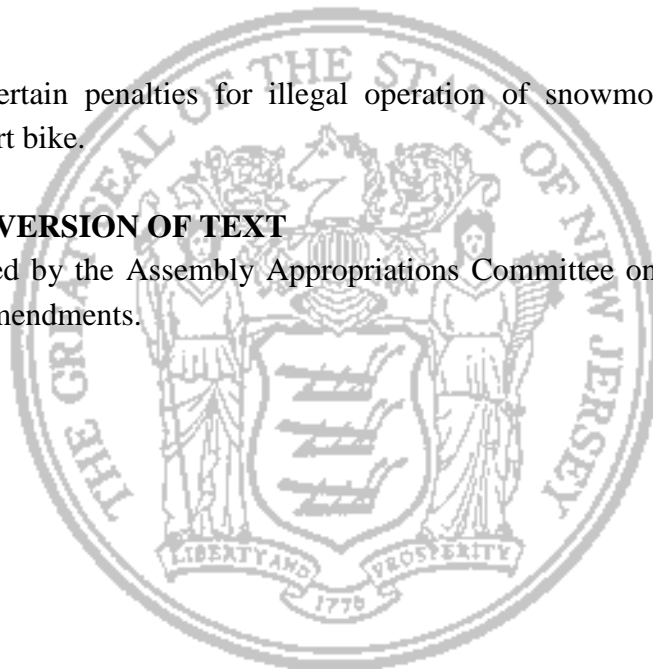
Assemblymen Holley, Verrelli, Assemblywomen Speight and Murphy

SYNOPSIS

Revises certain penalties for illegal operation of snowmobile, all-terrain vehicle, or dirt bike.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 12, 2019, with amendments.



(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning snowmobiles ¹, dirt bikes,¹ and all-terrain
 2 vehicles ¹~~and~~ ²~~and~~ ¹ and² supplementing P.L.1973, c.307
 3 (C.39:3C-1 et seq.) ²~~and amending N.J.S.2C:64-1~~¹².

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. ¹(New section)¹ a. ¹~~A~~ ²~~Except as provided in~~
 9 ~~subsections e. and f. of this section, a~~¹ A ² snowmobile ¹~~or~~ ¹
 10 all-terrain vehicle ¹, or dirt bike¹ operated on any public street,
 11 highway, or right-of-way in violation of section 17 of P.L.1973,
 12 c.307 (C.39:3C-17) shall be impounded by the law enforcing
 13 agency and subject to a fee and costs as hereinafter provided:

14 (1) For a first offense, the snowmobile ¹~~or~~ ¹ all-terrain
 15 vehicle ¹, or dirt bike¹ shall be impounded for not less than ¹~~48~~
 16 ~~hours~~ seven days¹ and shall be released to the registered owner
 17 upon proof of registration and insurance and payment of a fee of
 18 \$500 payable to the municipality, plus reasonable towing and
 19 storage costs.

20 (2) For a second or subsequent offense, the snowmobile ¹~~or~~ ¹
 21 all-terrain vehicle ¹, or dirt bike¹ shall be impounded for not less
 22 than ¹~~96 hours~~ 14 days¹ and shall be released to the registered
 23 owner upon proof of registration and insurance and payment of a
 24 fee of \$750 payable to the municipality, plus reasonable towing and
 25 storage costs.

26 b. If the registered owner ¹of a snowmobile, all-terrain vehicle,
 27 or dirt bike impounded pursuant subsection a. of this section¹ fails
 28 to claim the impounded snowmobile ¹~~or~~ ¹ all-terrain vehicle ¹, or
 29 dirt bike¹ and pay all outstanding fees and costs by midnight of the
 30 30th day following the day on which the snowmobile ¹~~or~~ ¹ all-
 31 terrain vehicle ¹, or dirt bike¹ was impounded, that snowmobile
 32 ¹~~or~~ ¹ all-terrain vehicle ¹, or dirt bike¹ may be sold at public¹
 33 auction. Notice of the sale shall be given by the impounding entity
 34 by certified mail to the owner of the snowmobile or all-terrain
 35 vehicle, if the owner's name and address are known, and to the
 36 holder of any security interest filed with the Chief Administrator of
 37 the New Jersey Motor Vehicle Commission, and by publication in a
 38 form prescribed by the ¹~~director~~ chief administrator¹ by one
 39 insertion, at least five days before the date of the sale, in one or
 40 more newspapers published in this State and circulating in the
 41 municipality in which the snowmobile ¹~~or~~ ¹ all-terrain vehicle ¹,
 42 or dirt bike¹ is impounded.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ATR committee amendments adopted December 9, 2019.

²Assembly AAP committee amendments adopted December 12, 2019.

1 c. At any time prior to ¹~~the~~ ¹a sale ¹pursuant to subsection b.
 2 of this section¹, the owner or other person entitled to the
 3 snowmobile ¹~~or~~ ¹, all-terrain vehicle ¹, or dirt bike¹ may reclaim
 4 possession upon showing proof of registration and insurance and
 5 paying all outstanding fees and costs associated with the
 6 impoundment, and reasonable towing and storage costs.

7 The owner-lessor of ¹~~an impounded~~ ¹a snowmobile ¹~~or~~ ¹,
 8 all-terrain vehicle ¹, or dirt bike impounded pursuant to paragraph
 9 (1) or (2) of subsection a. of this section¹ shall be entitled to reclaim
 10 possession without payment and the lessee shall be liable for all
 11 outstanding fees and costs associated with the impoundment,
 12 towing and storage of the snowmobile or all-terrain vehicle.

13 d. Any proceeds obtained from the sale of a snowmobile
 14 ¹~~or~~ ¹, all-terrain vehicle ¹, or dirt bike¹ at public auction pursuant
 15 to subsection b. of this section in excess of the amount owed to the
 16 impounding entity for the reasonable costs of towing and storage
 17 and any fees or other costs associated with the impoundment of the
 18 snowmobile ¹~~or~~ ¹, all-terrain vehicle ¹, or dirt bike¹ shall be
 19 returned to the owner of that snowmobile ¹~~or~~ ¹, all-terrain vehicle
 20 ¹, or dirt bike¹, if ¹~~his~~ ¹the owner's¹ name and address are known.
 21 If the owner's name and address are unknown or ¹~~such~~ ¹the¹
 22 person or entity cannot be located, the net proceeds shall be
 23 administered in accordance with the "Uniform Unclaimed Property
 24 Act," R.S.46:30B-1 et seq.

25 ²~~e.~~ ¹A snowmobile, all-terrain vehicle, or dirt bike operated in a
 26 municipality that has enacted an ordinance pursuant to section 4 of
 27 P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill)
 28 designating a snowmobile, all-terrain vehicle, or dirt bike operated
 29 in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) as prima
 30 facie contraband shall be subject to the forfeiture provisions of
 31 chapter 64 of Title 2C of the New Jersey Statutes.

32 f. A municipality may destroy a snowmobile, all-terrain vehicle,
 33 or dirt bike designated as prima facie contraband pursuant to section
 34 4 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this
 35 bill) upon its return to the municipality pursuant to the provision of
 36 N.J.S.2C:64-2. ¹²

37
 38 2. ¹(New section)¹ A person who operates a snowmobile
 39 ¹~~or~~ ¹, all-terrain vehicle ¹, or dirt bike¹ on any public street,
 40 highway or right-of-way in violation of section 17 of P.L.1973,
 41 c.307 (C.39:3C-17) shall:

42 a. For a first offense, be ¹~~subject to a fine of \$250 and the~~
 43 suspension or postponement of their driving privileges for 30 days.
 44 Upon conviction, the court shall forward a report to the New Jersey
 45 Motor Vehicle Commission stating the first and last day of the
 46 suspension or postponement period imposed by the court under this
 47 section. If a person at the time of the imposition of the sentence is

1 less than 17 years of age, the period of license postponement,
2 including a suspension or postponement of the privilege of
3 operating a motorized bicycle, shall commence on the day the
4 sentence is imposed and shall run for a period of 30 days after the
5 person reaches the age of 17 years **】** ordered by the court to perform
6 community service for a period of 30 days, which shall be of a form
7 and on terms as the court shall deem appropriate under the
8 circumstances¹.

9 b. For a second offense, be ¹**【**subject to a fine of \$500 and the
10 suspension or postponement of their driving privileges for six
11 months. Upon conviction, the court shall forward a report to the
12 New Jersey Motor Vehicle Commission stating the first and last day
13 of the suspension or postponement period imposed by the court
14 under this section. If a person at the time of the imposition of the
15 sentence is less than 17 years of age, the period of license
16 postponement, including a suspension or postponement of the
17 privilege of operating a motorized bicycle, shall commence on the
18 day the sentence is imposed and shall run for a period of six months
19 after the person reaches the age of 17 years **】** ordered by the court to
20 perform community service for a period of 60 days, which shall be
21 of a form and on terms as the court shall deem appropriate under the
22 circumstances¹.

23 c. For a third or subsequent offense, be ¹**【**subject to a fine of
24 \$1,000 and the suspension or postponement of their driving
25 privileges for two years. Upon conviction, the court shall forward a
26 report to the New Jersey Motor Vehicle Commission stating the
27 first and last day of the suspension or postponement period imposed
28 by the court under this section. If a person at the time of the
29 imposition of the sentence is less than 17 years of age, the period of
30 license postponement, including a suspension or postponement of
31 the privilege of operating a motorized bicycle, shall commence on
32 the day the sentence is imposed and shall run for a period of two
33 years after the person reaches the age of 17 years **】** ordered by the
34 court to perform community service for a period of 90 days, which
35 shall be of a form and on terms as the court shall deem appropriate
36 under the circumstances¹.

37

38 ²**【**¹³. (New section) The Legislature finds and declares that:

39 a. Snowmobiles, all-terrain vehicles, and dirt bikes are strictly
40 regulated in this State. In order to protect the public's safety and
41 mitigate detrimental effects of these vehicles on the environment,
42 these vehicles, with limited exceptions, may lawfully only be
43 operated on designated sites.

44 b. State law explicitly restricts the operation of these vehicles
45 on public streets and highways, except for the limited purpose of
46 crossing or paralleling the road in order to get to a designated site.

1 c. State law also requires snowmobiles, all-terrain vehicles, and
2 dirt bikes to be registered and insured, and requires passengers to
3 wear protective helmets.

4 d. Despite regulation of these vehicles under current law,
5 snowmobiles, all-terrain vehicles, and dirt bikes are being operated
6 illegally, in increasing numbers, in certain municipalities in the
7 State. This illegal operation has caused a number of deaths and
8 serious bodily injuries to passengers as well as innocent bystanders.

9 e. The unlawful use of snowmobiles, all-terrain vehicles, and
10 dirt bikes on public roads, parks, and other public spaces has
11 threatened the public safety and caused damage to these spaces.

12 f. The purpose of this act is to provide additional resources to
13 law enforcement in order to protect the citizens of this State, as well
14 as public lands, by enabling a municipality to enact an ordinance
15 designating snowmobiles, all-terrain vehicles, and dirt bikes
16 illegally operated in the municipality as prima facie contraband
17 subject to civil asset forfeiture.¹】²

18
19 ²【¹⁴. The governing body of a municipality may enact an
20 ordinance designating any snowmobile, all-terrain vehicle, and dirt
21 bike operated on any public street, highway, or right-of-way in
22 violation of section 17 of P.L.1973, c.307 (C.39:3C-17) as prima
23 facie contraband subject to forfeiture in accordance with the
24 procedures set forth in chapter 64 of Title 2C of the New Jersey
25 Statutes.¹】²

26
27 ²【¹⁵. N.J.S.2C:64-1 is amended to read as follows:
28 2C:64-1. Property Subject to Forfeiture.

29 a. Any interest in the following shall be subject to forfeiture
30 and no property right shall exist in them:

31 (1) Controlled dangerous substances【,】; firearms which are
32 unlawfully possessed, carried, acquired or used【,】; illegally
33 possessed gambling devices【,】; untaxed or otherwise contraband
34 cigarettes or tobacco products【,】; unlawfully possessed container e-
35 liquid【,】; untaxed special fuel【,】; unlawful sound recordings and
36 audiovisual works; snowmobiles, all-terrain vehicles, and dirt bikes
37 illegally operated in a municipality that has enacted an ordinance
38 pursuant to section 4 of P.L. , c. (C.) (pending before the
39 Legislature as this bill); and items bearing a counterfeit mark.
40 These shall be designated prima facie contraband.

41 (2) All property which has been, or is intended to be, utilized in
42 furtherance of an unlawful activity, including, but not limited to,
43 conveyances intended to facilitate the perpetration of illegal acts, or
44 buildings or premises maintained for the purpose of committing
45 offenses against the State.

46 (3) Property which has become or is intended to become an
47 integral part of illegal activity, including, but not limited to, money

1 which is earmarked for use as financing for an illegal gambling
2 enterprise.

3 (4) Proceeds of illegal activities, including, but not limited to,
4 property or money obtained as a result of the sale of prima facie
5 contraband as defined by subsection a. (1), proceeds of illegal
6 gambling, prostitution, bribery and extortion.

7 b. Any article subject to forfeiture under this chapter may be
8 seized by the State or any law enforcement officer as evidence
9 pending a criminal prosecution pursuant to **[section 2C:64-4]**
10 N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon
11 process issued by any court of competent jurisdiction over the
12 property, except that seizure without such process may be made
13 when not inconsistent with the Constitution of this State or the
14 United States, and when

15 (1) The article is prima facie contraband; or

16 (2) The property subject to seizure poses an immediate threat to
17 the public health, safety or welfare.

18 c. For the purposes of this section:

19 "All-terrain vehicle" shall have the same meaning as provided in
20 section 1 of P. L.1973, c.307 (C.39:3C-1).

21 "Dirt bike" shall have the same meaning as provided in section 1
22 of P. L.1973, c.307 (C.39:3C-1).

23 "Items bearing a counterfeit mark" means items bearing a
24 counterfeit mark as defined in N.J.S.2C:21-32.

25 "Snowmobile" shall have the same meaning as provided in
26 section 1 of P. L.1973, c.307 (C.39:3C-1).

27 "Unlawful sound recordings and audiovisual works" means
28 sound recordings and audiovisual works as those terms are defined
29 in N.J.S.2C:21-21 which were produced in violation of
30 N.J.S.2C:21-21.

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

35 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
36 kerosene on which the motor fuel tax imposed pursuant to
37 **[R.S.54:39-1 et seq.] P.L.2010, c.22 (C.54:39-101 et al.)** is not paid
38 that is delivered, possessed, sold or transferred in this State in a
39 manner not authorized pursuant to **[R.S.54:39-1 et seq.] P.L.2010,**
40 c.22 (C.54:39-101 et al.) or P.L.1938, c.163 (C.56:6-1 et seq.).¹

41 (cf: P.L.2019, c.147, s.10)]²

42
43 ²**[16. (New Section) a. It shall be the duty of any law**
44 enforcement officer who knows, or has reasonable cause to believe,
45 that a person is or has been engaged in the unlawful operation of a
46 snowmobile, all-terrain vehicle, or dirt bike to investigate and seize
47 any vehicle that the officer knows, or has reasonable grounds to

1 believe, is a snowmobile, all-terrain vehicle, or dirt bike that is or
2 has been operated unlawfully. A law enforcement officer shall not
3 be required to obtain a search warrant to investigate and seize an
4 unlawfully operated vehicle located on private property.

5 b. A snowmobile, all-terrain vehicle, or dirt bike seized
6 pursuant to subsection a. of this section shall be subject to the
7 provisions of section 1 of P.L. , c. (C.) (pending before the
8 Legislature as this bill):¹²

9
10 ¹~~[3.]~~ ²~~[7.]~~ ^{3.}² This act shall take effect on the first day of the
11 third month following enactment.