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District 15 (Hunterdon and Mercer)
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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)
AN ACT concerning snowmobiles, dirt bikes, and all-terrain vehicles (and) supplementing P.L.1973, c.307 (C.39:3C-1 et seq.) and amending N.J.S.2C:64-1.

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

1. (New section) a. [Except as provided in subsections e. and f. of this section, a] A snowmobile or 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 or all-terrain vehicle or dirt bike shall be impounded for not less than 48 hours 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 or all-terrain vehicle or dirt bike shall be impounded for not less than 96 hours 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 or 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 or all-terrain vehicle or dirt bike was impounded, that snowmobile or 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 or all-terrain vehicle or dirt bike 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.
c. At any time prior to the sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile or 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.

The owner-lessee of an impounded 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 his name and address are known. If the owner's name and address are unknown or such 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 snowmobile, all-terrain vehicle, or dirt bike operated in a municipality that has enacted an ordinance pursuant to section 4 of P.L.____, c.____ (pending before the Legislature as this bill) designating a snowmobile, all-terrain vehicle, or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) as prima facie contraband shall be subject to the forfeiture provisions of chapter 64 of Title 2C of the New Jersey Statutes.

f. A municipality may destroy a snowmobile, all-terrain vehicle, or dirt bike designated as prima facie contraband pursuant to section 4 of P.L.____, c.____ (pending before the Legislature as this bill) upon its return to the municipality pursuant to the provision of N.J.S.2C:64-2.1.

2. A person who operates a snowmobile, all-terrain vehicle, or dirt bike 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:

a. For a first offense, be subject to a fine of $250 and the suspension or postponement of their driving privileges for 30 days. Upon conviction, the court shall forward a report to the New Jersey Motor Vehicle Commission stating the first and last day of the suspension or postponement period imposed by the court under this section. If a person at the time of the imposition of the sentence is
less than 17 years of age, the period of license postponement, 
including a suspension or postponement of the privilege of 
operating a motorized bicycle, shall commence on the day the 
sentence is imposed and shall run for a period of 30 days after the 
person reaches the age of 17 years ordered by the court to perform 
community service for a period of 30 days, which shall be of a form 
and on terms as the court shall deem appropriate under the 
circumstances.

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

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

3. (New section) The Legislature finds and declares that:

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

b. State law explicitly restricts the operation of these vehicles 
on public streets and highways, except for the limited purpose of 
crossing or paralleling the road in order to get to a designated site.
c. State law also requires snowmobiles, all-terrain vehicles, and dirt bikes to be registered and insured, and requires passengers to wear protective helmets.

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

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

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

2. The governing body of a municipality may enact an ordinance designating any snowmobile, all-terrain vehicle, and 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) as prima facie contraband subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.2

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; snowmobiles, all-terrain vehicles, and dirt bikes illegally operated in a municipality that has enacted an ordinance pursuant to section 4 of P.L. , c. (C. ) (pending before the Legislature as this bill); 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 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:

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

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

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

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

"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., P.L.2010, c.22 (C.54:39-101 et al.) 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., P.L.2010, c.22 (C.54:39-101 et al.) or P.L.1938, c.163 (C.56:6-1 et seq.).

(cf: P.L.2019, c.147, s.10)
believe, is a snowmobile, all-terrain vehicle, or dirt bike that is or
has been operated unlawfully. A law enforcement officer shall not
be required to obtain a search warrant to investigate and seize an
unlawfully operated vehicle located on private property.

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

This act shall take effect on the first day of the
third month following enactment.