§2221-A. Forfeiture of liquor and property used in illegal manufacture, transportation and sale of liquor

1. Property forfeited. The following property shall be subject to forfeiture to the State and all property rights in the property shall be in the State:

A. All materials, products and equipment of any kind which are used, or intended for use, in manufacturing, transporting or selling liquor in violation of this Title; and [PL 1987, c. 342, §128 (NEW).]

B. All conveyances, including aircraft, watercraft, vehicles and vessels, which are used, or are intended for use, to transport, conceal or otherwise to facilitate the manufacturing, transporting or selling of liquor in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

2. Jurisdiction. Property subject to forfeiture under subsection 1, paragraph A, shall be declared forfeited by any court having jurisdiction over the property or having final jurisdiction over any related criminal proceeding brought under this chapter.

[PL 1987, c. 342, §128 (NEW).]

3. Exceptions. The court shall order forfeiture of all conveyances subject to forfeiture under subsection 1, paragraph B, except as follows.

A. No conveyance used by any person as a for-hire carrier in the transaction of business as a for-hire carrier shall be forfeited unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to a violation of this Title. [PL 1987, c. 342, §128 (NEW).]

B. No conveyance shall be forfeited 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 illegally in the possession of a person other than the owner in violation of the criminal laws of the United States, the State or of any State. [PL 1987, c. 342, §128 (NEW).]

C. No conveyance shall be subject to forfeiture unless the owner knew or should have known that the conveyance was used in and for the illegal manufacturing, transporting or selling of liquor in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

4. Forfeiture procedure. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of property subject to forfeiture under subsection 1, paragraph B. The petition must be filed in the court having jurisdiction over the property. [PL 1987, c. 342, §128 (NEW).]

B. The proceeding shall be deemed a civil suit, in which the State shall have the burden of proving all material facts by a preponderance of the evidence. The owner of the property, or other person claiming under the owner, shall have the burden of proving all the exceptions set forth in subsection 3 by a preponderance of the evidence. [PL 1987, c. 342, §128 (NEW).]

C. The court shall order the State to give notice by certified or registered mail or hand delivered by a deputy sheriff to the owner of the property and to any other person who appears to have an interest in the property. [PL 1987, c. 342, §128 (NEW).]

D. The court shall hold a hearing on the petition. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [PL 2011, c. 559, Pt. A, §33 (AMD).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order shall provide for disposition of the property by the State or any subdivision of the State in any manner not prohibited by law, including official use by an authorized law enforcement or other public agency, sale at public auction or by competitive bidding.

(1) The proceeds of any sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice and to pay any bona fide mortgage on the property. The balance, if any, shall be deposited in the State Treasury, or the treasury of the county or municipality making the seizure. [PL 1987, c. 342, §128 (NEW).]

[PL 2011, c. 559, Pt. A, §33 (AMD).]

5. Records. Any officer, department or agency having custody of property subject to forfeiture under subsection 1, or having disposed of the property, shall keep and maintain full and complete records concerning the property.

A. The records must show:

(1) From whom it received the property;

(2) Under what authority it held, received or disposed of the property;

(3) To whom it delivered the property;

(4) The date and manner of destruction or disposition of the property; and

(5) The exact kinds, quantities and forms of the property. [PL 1987, c. 342, §128 (NEW).]

B. The records shall be open to inspection by all federal and state officers charged with enforcement of federal and state liquor laws. [PL 1987, c. 342, §128 (NEW).]

C. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition. [PL 1987, c. 342, §128 (NEW).]

D. The bureau shall maintain a centralized record of property seized, held by an order to the bureau. If requested, the bureau shall provide a report of the disposition of property previously held by the bureau as required by this section to any governmental entity to the commissioner or to the Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [PL 2013, c. 368, Pt. V, §53 (AMD).]

[PL 2013, c. 588, Pt. A, §36 (AMD).]

6. Preliminary order. At the request of the State ex parte, the court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property shall issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process shall be subject to the provisions of applicable Maine law. [PL 1987, c. 342, §128 (NEW).]

B. Any property subject to forfeiture under this section may be seized upon process, except that seizure without process may be made when:

(1) The seizure is incident to:

(a) An arrest with probable cause;

(b) A search under a valid search warrant; or

(c) An inspection under a valid administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this section;

(3) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) There is probable cause to believe the property has been used or is intended to be used in violation of this Title. [PL 1987, c. 342, §128 (NEW).]

[PL 1987, c. 342, §128 (NEW).]

SECTION HISTORY

PL 1987, c. 342, §128 (NEW). PL 1997, c. 373, §161 (AMD). PL 2011, c. 559, Pt. A, §33 (AMD). PL 2013, c. 368, Pt. V, §53 (AMD). PL 2013, c. 588, Pt. A, §36 (AMD).

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