

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 32 Session of 2013

INTRODUCED BY HARPER, SCHLOSSBERG, V. BROWN, GINGRICH, HESS, C. HARRIS, D. COSTA, MILLARD, PASHINSKI, SWANGER, O'NEILL, WATSON AND HENNESSEY, JANUARY 4, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 4, 2013

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for the offense and consequences of
4 possession of a vehicle with false compartments.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 907(d) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended by adding a definition and the
9 section is amended by adding a subsection to read:

10 § 907. Possessing instruments of crime.

11 * * *

12 (c.1) Unlawful false or secret compartment.--A person
13 commits a misdemeanor of the first degree if he possesses a
14 false or secret compartment in a motor vehicle with the intent
15 to employ the false or secret compartment criminally.

16 (d) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection:

1 * * *

2 "False or secret compartment." Any enclosure integrated into
3 a motor vehicle that is a modification of the motor vehicle as
4 built by the manufacturer.

5 * * *

6 Section 2. Title 42 is amended by adding a section to read:
7 § 6801.2. Forfeiture of vehicle with unlawful false or secret
8 compartment.

9 (a) Forfeiture.--

10 (1) Except as set forth in paragraph (2), a vehicle used
11 in the commission of an offense under 18 Pa.C.S. § 907(c.1)
12 (relating to possessing instruments of crime) shall be
13 subject to forfeiture to the Commonwealth and no property
14 right shall exist in the vehicle.

15 (2) The following apply:

16 (i) No vehicle used by a common carrier in the
17 transaction of business as a common carrier shall be
18 forfeited unless the Commonwealth establishes that the
19 owner or other person in charge of the vehicle was a
20 consenting party or privy to the offense.

21 (ii) No vehicle shall be forfeited under the
22 provisions of this section by reason of any act or
23 omission established by the owner thereof to have been
24 committed or omitted without his knowledge or consent,
25 which absence or knowledge or consent must be reasonable
26 under the circumstances presented.

27 (b) Process and seizures.--A vehicle subject to forfeiture
28 under this section may be seized by the law enforcement
29 authority upon process issued by a court of common pleas having
30 jurisdiction over the vehicle. Seizure without process may be

1 made if any of the following apply:

2 (1) The seizure is incident to an arrest, a search under
3 a search warrant or an inspection under an administrative
4 inspection warrant.

5 (2) The vehicle has been the subject of a prior judgment
6 in favor of the Commonwealth in a criminal injunction or
7 forfeiture proceeding under this chapter.

8 (3) There is probable cause to believe that the vehicle
9 has been or is intended to be used in the commission of an
10 offense under 18 Pa.C.S. § 907(c.1).

11 (c) Seizure without process.--If seizure is made without
12 process, proceedings for the issuance thereof shall be
13 instituted forthwith.

14 (d) Custody.--A vehicle taken or detained under this section
15 shall not be subject to replevin but is deemed to be in the
16 custody of the law enforcement authority, subject only to the
17 orders and decrees of the court of common pleas having
18 jurisdiction over the forfeiture proceedings and of the district
19 attorney or the Attorney General. When a vehicle is seized under
20 this section, the law enforcement authority shall place the
21 vehicle under seal and either:

22 (1) remove it to a place determined by the law
23 enforcement authority; or

24 (2) request that the district attorney or Attorney
25 General take custody of it and remove it to an appropriate
26 location for disposition in accordance with law.

27 (e) Use of vehicle held in custody.--When a vehicle is
28 forfeited under this section, it shall be transferred to the
29 custody of the district attorney if the law enforcement
30 authority seizing the vehicle has local or county jurisdiction

1 or of the Attorney General if the law enforcement authority
2 seizing the vehicle has Statewide jurisdiction. The district
3 attorney or the Attorney General, where appropriate, may:

4 (1) Retain the vehicle for official use.

5 (2) Sell any vehicle which is not required to be
6 destroyed by law and which is not harmful to the public, the
7 proceeds from any such sale to be used to pay all proper
8 expenses of the proceedings for forfeiture and sale,
9 including expenses of seizure, maintenance of custody,
10 advertising and court costs. The balance of the proceeds
11 shall be dealt with under subsections (f) and (g).

12 (f) Use of proceeds.--Proceeds transferred to the custody of
13 the district attorney pursuant to subsection (e)(2) shall be
14 placed in the operating fund of the county in which the district
15 attorney is elected. The appropriate county authority shall
16 immediately release from the operating fund, without
17 restriction, that amount for the use of the district attorney in
18 enforcing the criminal laws of this Commonwealth. The entity
19 having budgetary control shall not anticipate future forfeitures
20 or proceeds from forfeiture in adoption and approval of the
21 budget for the district attorney.

22 (g) Distribution among law enforcement authorities.--If both
23 municipal and State law enforcement authorities were
24 substantially involved in effecting the seizure, the court
25 having jurisdiction over the forfeiture proceedings shall
26 equitably distribute the property between the district attorney
27 and Attorney General.

28 (h) Authorization to utilize property.--The district
29 attorney and the Attorney General shall utilize forfeited
30 property or proceeds thereof for the purpose of enforcing the

1 criminal laws of this Commonwealth.

2 (i) Annual audit.--Every county shall provide, through the
3 controller, board of auditors or other appropriate auditor and
4 the district attorney, an annual audit of all forfeited vehicles
5 and proceeds obtained under this section. The audit shall not be
6 made public but shall be submitted to the Office of Attorney
7 General. The county shall report all forfeited vehicles and
8 proceeds obtained under this section and the disposition of them
9 to the Attorney General by September 30 of each year.

10 (j) Annual report; confidential information regarding
11 vehicles.--The Attorney General shall annually submit a report
12 to the Appropriations Committee of the Senate and the Judiciary
13 Committee of the Senate and the Appropriations Committee of the
14 House of Representatives and the Judiciary Committee of the
15 House of Representatives specifying the forfeited vehicles or
16 proceeds obtained under this section. The report shall give an
17 accounting of all proceeds derived from the sale of forfeited
18 vehicles and the use made of unsold forfeited vehicles. The
19 Attorney General shall adopt procedures and guidelines governing
20 the release of information by the district attorney to protect
21 the confidentiality of forfeited vehicles or proceeds used in
22 ongoing law enforcement activities.

23 (k) Proceeds and appropriations.--The proceeds or future
24 proceeds from vehicles forfeited under this section shall be in
25 addition to any appropriation made to the Office of Attorney
26 General.

27 Section 3. This act shall take effect in 60 days.