

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1521 Session of
2011

INTRODUCED BY HARPER, CREIGHTON, DeLUCA, GEIST, HENNESSEY, HESS,
HORNAMAN, MURT, PASHINSKI, PEIFER, VEREB, WATSON, FARRY,
SWANGER AND CALTAGIRONE, MAY 10, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 8, 2012

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. Title 18 of the Pennsylvania Consolidated~~ ←

8 ~~Statutes is amended by adding a section to read:~~

9 ~~§ 907.1. Possession of a vehicle with false compartments.~~

10 ~~(a) Offense defined. Notwithstanding any other provision of~~
11 ~~law:~~

12 ~~(1) Any person who, acting with an unlawful purpose,~~
13 ~~knowingly owns, operates or possesses a motor vehicle which~~
14 ~~contains a false or secret compartment with the intent to~~
15 ~~store, conceal, camouflage, hide, smuggle, transport or~~
16 ~~prevent discovery of a person, controlled substance, firearm,~~
17 ~~weapon or other contraband within the false compartment~~
18 ~~commits a misdemeanor of the first degree.~~

1 ~~(2) Any person who, acting with an unlawful purpose,~~
2 ~~knowingly designs, assembles, constructs, builds, alters,~~
3 ~~fabricates, attaches, fortifies, installs, places, causes to~~
4 ~~be placed or maintains a false compartment in a motor vehicle~~
5 ~~with the intent to store, conceal, camouflage, hide, smuggle,~~
6 ~~transport or prevent discovery of a person, controlled~~
7 ~~substance, firearm, weapon or other contraband within the~~
8 ~~false compartment commits a misdemeanor of the second degree.~~

9 ~~(b) Defense prohibited. It shall not be a defense under~~
10 ~~this section that the false or secret compartment was inoperable~~
11 ~~or was not actually triggered, or that its existence or location~~
12 ~~was known to a law enforcement officer or another person.~~

13 ~~(c) Intent. For the purpose of this section, a person's~~
14 ~~intention to use a false or secret compartment to conceal the~~
15 ~~contents of the compartment from a law enforcement officer shall~~
16 ~~be inferred from factors including the discovery of a person,~~
17 ~~controlled substance, firearm, weapon or other contraband within~~
18 ~~the false or secret compartment, or from the discovery of~~
19 ~~evidence of the previous placement of a person, controlled~~
20 ~~substance, firearm, weapon or other contraband within the false~~
21 ~~or secret compartment.~~

22 ~~(d) Penalty. In addition to any other applicable penalty,~~
23 ~~any person convicted of a violation of this section shall be~~
24 ~~subject to a license suspension of one year for a first offense~~
25 ~~and two years for a second or subsequent offense.~~

26 ~~(e) Definitions. As used in this section, the following~~
27 ~~words and phrases shall have the meanings given to them in this~~
28 ~~subsection unless the context clearly indicates otherwise:~~

29 ~~"False or secret compartment." Any box, container, space or~~
30 ~~enclosure that is intended or designed to store, conceal,~~

1 ~~camouflage, hide, smuggle, transport or prevent discovery of a~~
2 ~~person, controlled substance, firearm, weapon or contraband~~
3 ~~within or attached to the motor vehicle, such as any of the~~
4 ~~following:~~

5 ~~(1) False, altered or modified fuel tanks.~~

6 ~~(2) Original factory equipment modified, altered or~~
7 ~~changed.~~

8 ~~(3) Compartment, space or box that is added to or~~
9 ~~fabricated, made or created using existing compartments,~~
10 ~~spaces or boxes within the vehicle.~~

11 ~~"License." Any driver's license issued in accordance with 75~~
12 ~~Pa.C.S. (relating to vehicles), including a commercial driver's~~
13 ~~license as defined under 75 Pa.C.S. § 1603 (relating to~~
14 ~~definitions).~~

15 SECTION 1. SECTION 907(D) OF TITLE 18 OF THE PENNSYLVANIA
16 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION AND THE
17 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

18 § 907. POSSESSING INSTRUMENTS OF CRIME.

19 * * *

20 (C.1) UNLAWFUL FALSE OR SECRET COMPARTMENT.--A PERSON
21 COMMITTS A MISDEMEANOR OF THE FIRST DEGREE IF HE POSSESSES A
22 FALSE OR SECRET COMPARTMENT IN A MOTOR VEHICLE WITH THE INTENT
23 TO EMPLOY THE FALSE OR SECRET COMPARTMENT CRIMINALLY.

24 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
25 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
26 SUBSECTION:

27 * * *

28 "FALSE OR SECRET COMPARTMENT." ANY ENCLOSURE INTEGRATED INTO
29 A MOTOR VEHICLE THAT IS A MODIFICATION OF THE MOTOR VEHICLE AS
30 BUILT BY THE MANUFACTURER.



1 * * *

2 Section 2. Title 42 is amended by adding a section to read:

3 ~~§ 6801.2. Possession of a vehicle with false compartments~~ ←
4 FORFEITURE OF VEHICLE WITH UNLAWFUL FALSE OR SECRET ←
5 COMPARTMENT.

6 (a) Forfeiture.--

7 (1) Except as set forth in paragraph (2), a vehicle used
8 in the commission of an offense under 18 Pa.C.S. § 907.1 ←
9 (relating to possession of a vehicle with false compartments)
10 907(C.1) (RELATING TO POSSESSING INSTRUMENTS OF CRIME) shall ←
11 be subject to forfeiture to the Commonwealth, and no property ←
12 right shall exist in the vehicle.

13 (2) The following apply:

14 (i) A NO vehicle used by a common carrier in the ←
15 transaction of business as a common carrier shall not be ←
16 forfeited unless the Commonwealth establishes that the
17 owner or other person in charge of the conveyance VEHICLE ←
18 was a consenting party or privy to the offense.

19 (ii) A vehicle shall not be forfeited if the owner ←
20 of the vehicle establishes that the offense was committed
21 without the owner's knowledge or consent. NO VEHICLE ←
22 SHALL BE FORFEITED UNDER THE PROVISIONS OF THIS SECTION
23 BY REASON OF ANY ACT OR OMISSION ESTABLISHED BY THE OWNER
24 THEREOF TO HAVE BEEN COMMITTED OR OMITTED WITHOUT HIS
25 KNOWLEDGE OR CONSENT, WHICH ABSENCE OR KNOWLEDGE OR
26 CONSENT MUST BE REASONABLE UNDER THE CIRCUMSTANCES
27 PRESENTED.

28 (b) Process and seizures.--A vehicle subject to forfeiture
29 under this section may be seized by the law enforcement
30 authority upon process issued by a court of common pleas having

1 jurisdiction over the vehicle. Seizure without process may be
2 made if any of the following apply:

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

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

9 (3) There is probable cause to believe that the vehicle
10 has been or is intended to be used in the commission of an
11 offense under 18 Pa.C.S. § 907.1 907(C.1).

12 (c) Seizure without process.--If seizure is made without
13 process, proceedings for the issuance of process THEREOF shall
14 be instituted immediately FORTHWITH.

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

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

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

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

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

5 (1) Retain the vehicle for official use.

6 (2) ~~Sell the vehicle. The~~ SELL ANY VEHICLE WHICH IS NOT ←
7 REQUIRED TO BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL TO
8 THE PUBLIC, THE proceeds from ~~the sale shall~~ ANY SUCH SALE TO ←
9 be used to pay all proper expenses of the proceedings for
10 forfeiture and sale, including expenses of seizure,
11 maintenance of custody, advertising and court costs. The
12 balance of the proceeds shall be dealt with under subsections
13 (f) and (g).

14 (f) Use of proceeds.--Proceeds ~~under~~ TRANSFERRED TO THE ←
15 CUSTODY OF THE DISTRICT ATTORNEY PURSUANT TO subsection (e) (2)
16 shall be placed in the operating fund of the county in which the
17 district attorney is elected. The appropriate county authority
18 shall immediately release from the operating fund, without
19 restriction, that amount for the use of the district attorney in
20 enforcing the criminal laws of the Commonwealth of Pennsylvania.
21 The entity having budgetary control shall not anticipate future
22 forfeitures or proceeds from forfeiture in adoption and approval
23 of the budget for the district attorney.

24 (g) Distribution among law enforcement authorities.--If both
25 municipal and State law enforcement authorities were
26 substantially involved in effecting the seizure, the court
27 having jurisdiction over the forfeiture proceedings shall ~~order~~ ←
28 a sale of the vehicle and equitable distribution of proceeds
29 between the district attorney and the Attorney General EQUITABLY ←
30 DISTRIBUTE THE PROPERTY BETWEEN THE DISTRICT ATTORNEY AND

1 ATTORNEY GENERAL.

2 (H) AUTHORIZATION TO UTILIZE PROPERTY.--THE DISTRICT ←
3 ATTORNEY AND THE ATTORNEY GENERAL SHALL UTILIZE FORFEITED
4 PROPERTY OR PROCEEDS THEREOF FOR THE PURPOSE OF ENFORCING THE
5 CRIMINALS LAWS OF THIS COMMONWEALTH.

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

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

26 (j) (K) Proceeds and appropriations.--The proceeds or future ←
27 proceeds from vehicles forfeited under this section shall be in
28 addition to any appropriation made to the Office of Attorney
29 General.

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