

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1537 Session of 2013

INTRODUCED BY HARPER, SCHLOSSBERG, O'NEILL, SWANGER, SIMS, MILLARD, HACKETT, WATSON, HESS, GINGRICH, BIZZARRO, C. HARRIS, M. K. KELLER, MILNE, COHEN, MURT, QUINN, STEPHENS, CALTAGIRONE AND ROZZI, JUNE 17, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 29, 2014

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 with criminal intent of a vehicle with false
5 compartments.

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

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

11 § 907. Possessing instruments of crime.

12 * * *

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

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

1 subsection:

2 * * *

3 "False or secret compartment." Any enclosure integrated into
4 a motor vehicle that is a modification of the motor vehicle as
5 built by the manufacturer. THE TERM DOES NOT INCLUDE A <--
6 COMPARTMENT USED OR POSSESSED SOLELY FOR THE PURPOSE OF SECURING
7 VALUABLES, ELECTRONICS, FIREARMS OR OTHER PERSONAL PROPERTY THAT
8 IS LAWFULLY POSSESSED.

9 * * *

10 Section 2. Title 42 is amended by adding a section to read:
11 § 6801.2. Forfeiture of vehicle with unlawful false or secret
12 compartment.

13 (a) Forfeiture.--

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

19 (2) The following apply:

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

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

1 (b) Process and seizures.--A vehicle subject to forfeiture
2 under this section may be seized by the law enforcement
3 authority upon process issued by a court of common pleas having
4 jurisdiction over the vehicle. Seizure without process may be
5 made if any of the following apply:

6 (1) The seizure is incident to an arrest, a search under
7 a search warrant or an inspection under an administrative
8 inspection warrant.

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

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

15 (c) Seizure without process.--If seizure is made without
16 process, proceedings for the issuance thereof shall be
17 instituted forthwith.

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

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

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

1 (e) Use of vehicle held in custody.--When a vehicle is
2 forfeited under this section, it shall be transferred to the
3 custody of the district attorney if the law enforcement
4 authority seizing the vehicle has local or county jurisdiction
5 or of the Attorney General if the law enforcement authority
6 seizing the vehicle has Statewide jurisdiction. The district
7 attorney or the Attorney General, where appropriate, may:

8 (1) Retain the vehicle for official use.

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

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

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

1 and 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 criminal laws of this Commonwealth.

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

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

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

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