

SCOTT COUNTY ATTORNEY FORFEITURE DIVISION

WHAT IS A CRIMINAL/TRAFFIC FORFEITURE?

A criminal/traffic forfeiture is the taking of property from an individual who has committed a crime or used property to commit the crime, and ownership is subsequently transferred to government. the

THERE ARE THREE COMMON TYPES OF FORFEITURES

DWI-Minn. Stat. 169A.63

A motor vehicle may be forfeited if it used in the commission of a DWI plus one of the following: (1) if the driver is charged with a 2nd Degree DWI, (2) the driver has a B-card, or (3) the driver's license is cancelled inimical to public safety or (4) 2nd Degree DWI charge pending after PBT over .16.

Drugs - Minn. Stat. 609.5314

A motor vehicle, cash, firearms or precious metals/stones may be forfeited if it associated with a controlled substance and is either used or in close proximity to those drugs.

Designated Offense-Minn. Stat 609.531

A Designated Offense forfeiture requires a conviction for certain crimes: fleeing a police officer in a motor vehicle, manufacturing or distributing drugs on property, and more. See Minn. Stat. 609.531 for a list.

**MINN. STAT. 169A.63
(DWI VEHICLE FORFEITURE)
ARREST/SEIZURE**

**Does the Driver have the requisite priors for vehicle forfeiture?
(Run a Driver's License check on the Driver)**

- _____ DWI plus 2 or more prior alcohol related incidents, .16 or more, and/or child under 16
- _____ Refusal plus aggravating factor (prior, .16 or child)
- _____ DWI plus B-Card Violation
- _____ DWI plus Cancellips

No
No forfeiture

Yes
Personally serve Forfeiture and
Property Receipt on driver.
Impound Vehicle.

**Run a vehicle plate check.
Is the Driver the Owner?**

Yes

No

Contact Owner- establish whether owner can demonstrate that he/she did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or took reasonable steps to prevent use by offender. Remember: if household or family member and 3 or more DWIs, owner presumed to know. Serve Owner with Notice by first class mail, return receipt requested. If Driver is a co-owner, serve the other co-owner with Notice by first class certified mail, return receipt requested.

Is there a lien

No

Yes

- Yes to Lien: serve lien holder with forfeiture
Notice by first class certified mail, return receipt.

Driver not the owner:

Ask whose car is it?
How long have you had the car?
Record insurance information
Note contents of vehicle

**MINN. STAT. 609.531
(CONTROLLED SUBSTANCE FORFEITURE)
Drugs/Arrest/Seizure**

Controlled Substance _____

Weight _____ Value _____

Sale _____ Possession _____

What may be forfeited?

- _____ Money, (any amount) found in proximity to controlled substance
- _____ Conveyances (vehicle, boats, ect..) containing controlled substance
- _____ ****Caveat: vehicle containing less than 42.5 grams of marijuana are not subject to forfeiture.**
- _____ **** Caveat: vehicles containing controlled substances that constitute felony offenses are subject to administrative forfeiture if the retail value of the substance is greater than \$100. If retail value is greater than \$75 but less than \$100, a summons and complaint must be prepared by the County Attorney and served.**
- _____ Guns and accessories used, in proximity and/or on the premises of the controlled substance.
- _____ Precious metals and stones in proximity of the controlled substance

MONEY

Personally serve
Administrative Forfeiture
Notice AND give Receipt
for property seized for
Forfeiture

VEHICLE ETC..

Personally serve Admin
Forf Notice AND give
Receipt for property seized
for Forfeiture

GUNS

Personally serve adm
Forf Notice AND give
Receipt for property seized
for Forfeiture

**PRECIOUS METALS
AND STONES**

Personally serve admin
Forf Notice And give
Receipt for property

Administrative-Personally Serve
admin Notice if retail value of property
over \$100 but under \$50,000 **AND**
give Receipt for property seized.
Impound Vehicle immediately.

Judicial - if between \$75 and \$99
retail value, notify Forfeiture Unit
Immediately **AND** give Receipt for
property seized and the Scott County
Notice of Property Seizure. Impound
vehicle immediately .

Disposition of Forfeited Vehicle Pursuant to Minn. Stat. 169A.63

1. **Sell DWI vehicle in a commercially reasonable manner and distribute proceeds as follows:**

After payment of seizure, towing, storage, forfeiture and sale expenses, and satisfaction of valid liens:

70% to the seizing agency as a supplement to their operating fund or similar fund for use in DWI-related enforcement, training and education;

30% to the prosecuting authority as a supplement to their operating fund or similar fund for prosecutorial purposes, education and training.

CAVEAT: forfeited vehicle cannot be sold to an officer or employee of the seizing agency, or a person related to the officer or employee by blood or marriage; or the prosecuting authority or any individual working in the same office or person related to the authority by blood or marriage.

Or

2. **Keep the vehicle for official use. Efforts should be made to have vehicle available for DARE program.**

Disposition of Forfeited Assets pursuant to Minn. Stat. 609.5315

1. **Sell asset in a commercially reasonable manner and distribute proceeds as follows:**

After payment of seizure, towing, storage, forfeiture and sale expenses, and satisfaction of valid liens:

70% to the seizing agency as a supplement to their operating fund or similar fund for use in law enforcement;

20% to the prosecuting authority as a supplement to their operating fund or similar fund for prosecutorial purposes, education and training;

10% to Minnesota State Treasury as a supplemental to its operating fund.

CAVEAT: forfeited vehicle cannot be sold to an officer or employee of the seizing agency, or a person related to the officer or employee by blood or marriage; or the prosecuting authority or any individual working in the same office or person related to the authority by blood or marriage.

Or

2. **Keep the vehicle for official use. Efforts should be made to have vehicle available for DARE program.**