

Filed for intro on 02/02/95
House Bill _____
By

Senate No. SB0931
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 33, Part 2 and Title 55, Chapter 10, Part 4, relative to the seizure, impoundment, and forfeiture of certain vehicles used to commit the offense of driving under the influence of an intoxicant.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-403, is amended by adding a new subsection thereto, as follows:

() (1) In addition to the penalties prescribed by this section, the motor vehicle used in the commission of a violation of Section 55-10-401 is subject to seizure and impoundment.

(2) Except as provided in subdivision (7), upon the first conviction for violating Section 55-10-401, or for committing a comparable offense in another state, or a combination of in-state and out-of-state convictions, the motor vehicle shall be seized and impounded for seven (7) days.

(3) Except as provided in subdivision (7), upon the second conviction for violating Section 55-10-401, or for committing a comparable offense in another state,

or a combination of in-state and out-of-state convictions, the motor vehicle shall be seized and impounded for thirty (30) days.

(4) A motor vehicle seized and impounded by this act shall be taken into the custody of the police department or the sheriff, depending upon where the offense occurs. A police department or sheriff may employ its own personnel, equipment and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing vehicles seized and impounded pursuant to this subsection.

(5) A person claiming an impounded vehicle shall pay all costs reasonably associated with the impoundment, including towing, storage, and maintenance.

(6) If a vehicle is not claimed within thirty (30) days after the expiration of the impoundment, the vehicle shall be subject to disposal as an abandoned motor vehicle pursuant to Title 55, Chapter 16, Part 1.

(7)(A) If the vehicle is titled in the name of one (1) or more person(s) who is not the offender, and the vehicle is not rented or leased by a person or company regularly in the business of renting or leasing vehicles or driven by an employee of the owner, the vehicle shall be impounded if the owner or co-owner knew of and consented to the illegal or intended illegal use of such vehicle;

(B) If the vehicle is titled in the name of a person or company which is in the business of renting or leasing vehicles, the vehicle shall be impounded if the renting or leasing agent knew of and consented to the illegal or intended illegal use; or

(C) If the vehicle is a commercial vehicle or common carrier and the offender is an employee of the owner, the vehicle shall be impounded if the employer knew of and consented to the illegal or intended illegal use.

(8) Any cargo or products transported by such vehicle not subject to confiscation under any laws of state or federal government shall not be subject to impoundment.

Such cargo or products shall, upon request, immediately be made available for release to the owner or the transporting agent.

SECTION 2. Tennessee Code Annotated, Section 55-10-403, is amended by deleting subsection (k) in its entirety and substituting instead the following:

(k)(1) The vehicle used in the commission of a person's third or subsequent violation of Tennessee Code Annotated, Section 55-10-401, or the third or subsequent violation of any combination of Tennessee Code Annotated, Section 55-10-401, and a statute in any other state prohibiting driving under the influence of an intoxicant, is subject to seizure and forfeiture in accordance with the procedure established in Tennessee Code Annotated, Title 40, Chapter 33, Part 2. The department of safety is designated as the applicable agency, as defined by Tennessee Code Annotated, Section 40-33-202, for all forfeitures authorized by this subsection.

(2) In order for the provisions of subpart (1) of this subsection to be applicable to a vehicle, the violation making the vehicle subject to seizure and forfeiture must occur in Tennessee and at least one (1) of such violations must occur on or after July 1, 1995.

SECTION 3. Tennessee Code Annotated, Section 40-33-201, is amended by deleting the citations "53-11-451, 57-3-411" and substituting instead the citations "53-11-451, 55-10-403(k), 57-3-411".

SECTION 4. Tennessee Code Annotated, Section 40-33-210, is amended by deleting the citations "53-11-451, 57-3-411" and substituting instead the citations "53-11-451, 55-10-403(k), 57-3-411".

SECTION 5. Tennessee Code Annotated, Section 40-33-211, is amended by adding the following new subsection to be designated as (c) and by relettering present subsection (c) accordingly:

(c)(1) Notwithstanding the provisions of subsections (a) and (b) of this section to the contrary, one-fourth (1/4) of the revenue derived from the sale of any vehicle forfeited under the authority of Tennessee Code Annotated, Section 55-10-403(k), shall

be deposited in the state treasury for the exclusive use of the victims coalition, as established by Tennessee Code Annotated, Section 4-41-104. One-fourth (1/4) of the revenue derived from the sale of any vehicle forfeited under the authority of Tennessee Code Annotated, Section 55-10-403(k), shall be deposited in the state treasury for the exclusive use of the department of safety. The department of safety shall use such revenue to employ additional hearing officers and other personnel required because of such department's designation as the applicable agency for all forfeitures authorized by Tennessee Code Annotated, Section 55-10-403(k).

(2) The remaining one-half (1/2) of the revenue derived from the sale of any vehicle forfeited under the authority of Tennessee Code Annotated, Section 55-10-403(k), shall be distributed as provided in subsections (a) and (b) of this section.

Tennessee Code Annotated, Section 40-33-211(a), is further amended by deleting the citation "57-3-411" and substituting instead the citations "57-3-411, 57-5-409, 57-9-201".

SECTION 6. Tennessee Code Annotated, Section 40-33-214, is amended by deleting the citations "53-11-451, 57-3-411" and substituting instead the citations "53-11-451, 55-10-403(k), 57-3-411".

Tennessee Code Annotated, Section 40-33-214, is further amended by deleting the language "§§7-59-109, 39-14-140, 39-14-307, 47-25-1105, 53-11-451, 57-3-411, 57-5-409, 57-9-201, 67-4-1020, 70-3-111, 70-6-202 and 70-8-108" and substituting instead the language "§§39-14-307, 47-25-1105, 53-11-451, 57-3-411, 57-5-409, 57-9-201, 67-4-1020, and 70-6-202".

SECTION 7. This act shall take effect on July 1, 1995, the public welfare requiring it and shall apply to all applicable violations occurring on or after such date.

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