

CITY COUNCIL

The City of Orange Township, New Jersey

DATE November 14, 2022

NUMBER 452-2022

TITLE:
A RESOLUTION SUPPORTING NEW JERSEY STATUE 39:3C-35 TO ENCOURAGE THE CITY OF ORANGE TOWNSHIP POLICE DEPARTMENT TO EXERCISE THEIR DISCRETION TO EXACT THE SEVEREST PENALTY UNDER LAW. (SUBMITTED BY COUNCILMEMBER-AT-LARGE ADRIENNE WOOTEN)

WHEREAS, NJS4080 requires certain snowmobiles, all-terrain vehicles, and dirt bikes to be forfeited and destroyed; and

WHEREAS, this bill required certain snowmobiles, all-terrain vehicles, and dirt bikes to be forfeited and destroyed; and

WHEREAS, under current law, snowmobiles, all-terrain vehicles, and dirt bikes that are operated illegally are subject to impoundment and are released to the owner upon proof of registration and insurance and payment of a fee, plus towing and storage costs. Under the provisions of this bill, instead of being subject to impoundment and released upon payment of a fee and towing and storage costs, a snowmobile, all-terrain vehicle, or dirt bike that is operated illegally is to be designated as prima facie contraband that is subject to civil asset forfeiture under current law; and

WHEREAS, further, under current law, property which has been forfeited under the civil asset forfeiture law is destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety, or welfare; and

WHEREAS, this bill requires an illegally operated snowmobile, all-terrain vehicle, or dirt bike which was forfeited under the civil asset forfeiture law to also be destroyed; and

WHEREAS, on January 10, 2022 this bill was signed into law; and

WHEREAS, Section 39:3C-35 - Impoundment of certain vehicles, disposition

a. Except as provided in subsection e. of this section, a snowmobile, all-terrain vehicle, or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L. 1973, c.307 (C.39:3C-17) shall be impounded by the law enforcing agency and subject to a fee and costs as hereinafter provided:

WHEREAS, (1) For a first offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than seven days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs.

WHEREAS, (2) For a second or subsequent offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than 14 days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs.

WHEREAS, b. If the registered owner of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant subsection a. of this section fails to claim the impounded snowmobile, all-terrain vehicle, or dirt bike and pay all outstanding fees and costs by midnight of the 30th day following the day on which the snowmobile, all-terrain vehicle, or dirt bike was impounded, that snowmobile, all-terrain vehicle, or dirt bike may be sold at public auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the snowmobile or all-terrain vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the Chief Administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the snowmobile, all-terrain vehicle, or dirt bike is impounded. **c.** At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

WHEREAS, The owner-lessor of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to paragraph (1) or (2) of subsection a. of this section shall be entitled to reclaim possession without payment and the lessee shall be liable for all outstanding fees and costs associated with the impoundment, towing and storage of the snowmobile or all-terrain vehicle.

WHEREAS, d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

WHEREAS, e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L. 1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S. 2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S. 2C:64-1 et seq. as authorized by this subsection shall be disposed of in accordance with the provisions of N.J.S. 2C:64-6 or, at the discretion of the entity funding the prosecuting agency involved, may be destroyed.

N.J.S. § 39:3C-35 Amended by L. 2021, c. 353, s. 1, eff. 1/10/2022. Added by L. 2019, c. 505, s. 1, eff. 4/1/2020.

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Orange Township do encourage the City of Orange Township Police Department to exercise their discretion to exact the severest penalty under law for this statute.

Approved: November 14, 2022

Joyce L. Lanier
City Clerk

Tency A. Eason
Council President