

§ 14-86.1. Seizure and forfeiture of conveyances used in committing larceny and similar crimes.

(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or 20-106, or used by any person in the commission of armed or common-law robbery, or used in violation of G.S. 14-72.7, or used by any person in the commission of any larceny when the value of the property taken is more than two thousand dollars (\$2,000) shall be subject to forfeiture as provided herein, except that:

- (1) No conveyance used by any person as a common carrier in the transaction of the business of the common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in custody or control of such conveyance was a consenting party or privy to a violation that may subject the conveyance to forfeiture under this section;
- (2) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or any state;
- (3) No conveyance shall be forfeited pursuant to this section unless the violation involved is a felony;
- (4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission;
- (5) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section;
- (6) The trial judge in the criminal proceeding which may subject the conveyance to forfeiture may order the seized conveyance returned to the owner if he finds forfeiture inappropriate. If the conveyance is not returned to the owner the procedures provided in subsection (e) shall apply.

As used in this section concerning a violation of G.S. 14-72.7, the term "conveyance" includes any "instrumentality" as defined in that section.

(b) Any conveyance subject to forfeiture under this section may be seized by any law-enforcement officer upon process issued by any district or superior court having original jurisdiction over the offense except that seizure without such process may be made when:

- (1) The seizure is incident to an arrest or subject to a search under a search warrant; or
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding under this section.

(c) The conveyance shall be deemed to be in custody of the law-enforcement agency seizing it. The law-enforcement agency may remove the property to a place designated by it or request that the North Carolina Department of Justice or Department of Public Safety take custody of the property and remove it to an appropriate location for disposition in accordance with law; provided, the conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by an officer of the agency seizing the conveyance and shall be conditioned upon the return of said property to the custody of said officer on the day of trial to abide the judgment of the court.

(d) Whenever a conveyance is forfeited under this section, the law-enforcement agency having custody of it may:

- (1) Retain the conveyance for official use; or
- (2) Transfer the conveyance which was forfeited under the provisions of this section to the North Carolina Department of Justice or to the North Carolina Department of Public Safety when, in the discretion of the presiding judge and upon application of the North Carolina Department of Justice or the North Carolina Department of Public Safety, said conveyance may be of official use to the North Carolina Department of Justice or the North Carolina Department of Public Safety; or
- (3) Upon determination by the director of any law-enforcement agency that a conveyance transferred pursuant to the provisions of this section is of no further use to said agency, such conveyance may be sold as surplus property in the same manner as other conveyances owned by the law-enforcement agency. The proceeds from such sale, after deducting the cost thereof, shall be paid to the school fund of the county in which said conveyance was seized. Any conveyance transferred to any law-enforcement agency under the provisions of this section which has been modified or especially equipped from its original manufactured condition so as to increase its speed shall be used in the performance of official duties only. Such conveyance shall not be resold, transferred or disposed of other than as junk unless the special equipment or modification has been removed and destroyed, and the vehicle restored to its original manufactured condition.

(e) All conveyances subject to forfeiture under the provisions of this section shall be forfeited pursuant to the procedures for forfeiture of conveyances used to conceal, convey, or transport intoxicating beverages found in G.S. 18B-504. Provided, nothing in this section or G.S. 18B-504 shall be construed to require a conveyance to be sold when it can be used in the performance of official duties of the law-enforcement agency. (1979, c. 592; 1983, c. 74; c. 768, s. 2; 1991, c. 523, s. 4; 2007-178, s. 2; 2011-145, s. 19.1(g).)