

§959. Illegal gambling machines; forfeiture

1. An illegal gambling machine, including any monetary contents and any associated proceeds, is subject to forfeiture to the State.

[PL 2003, c. 687, Pt. A, §8 (AMD); PL 2003, c. 687, Pt. B, §11 (AFF).]

2. An illegal gambling machine, any monetary contents and any associated proceeds may be declared forfeited under this section by any court that has jurisdiction over the illegal gambling machine or final jurisdiction over any related criminal proceeding brought under this chapter or by the Superior Court for Kennebec County. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed.

[PL 2003, c. 687, Pt. A, §8 (AMD); PL 2003, c. 687, Pt. B, §11 (AFF).]

3. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of an illegal gambling machine, any monetary contents and any associated proceeds. The petition must be filed in the court having jurisdiction over the property. [PL 2005, c. 207, §2 (AMD).]

B. The proceeding under paragraph A is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence. [PL 2001, c. 461, §2 (NEW).]

C. A court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or through hand delivery by a deputy sheriff to any person who appears to have an interest in the illegal gambling machine, any monetary contents and any associated proceeds. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. [PL 2005, c. 207, §2 (AMD).]

D. A court shall hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [PL 2011, c. 559, Pt. A, §20 (AMD).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order must provide for disposition of the illegal gambling machine, any monetary contents and any associated proceeds by the State. Any revenue generated by the disposition of the illegal gambling machine, any monetary contents of the machine and any associated proceeds must be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice. The balance, if any, must be deposited in the General Fund. [PL 2005, c. 207, §2 (AMD).]

[PL 2011, c. 559, Pt. A, §20 (AMD).]

4. Any law enforcement officer, department or agency having custody of an illegal gambling machine, any monetary contents of an illegal gambling machine or any associated proceeds or having disposed of the illegal gambling machine, any monetary contents or any associated proceeds shall keep and maintain during the pendency of the action full and complete records in accordance with this subsection. Upon issuance by the court of a final order ordering the disposition, destruction or return of the illegal gambling machine, any monetary contents or any associated proceeds, the officer, department or agency must transmit a copy of those records to the Department of Public Safety for inclusion into a centralized record.

A. The records must show:

(1) From whom the illegal gambling machine, any monetary contents and any associated proceeds were received;

- (2) Under what authority the illegal gambling machine, any monetary contents and any associated proceeds are held, received or disposed of;
- (3) To whom the illegal gambling machine, any monetary contents and any associated proceeds are delivered;
- (4) The date and manner of destruction or disposition of the illegal gambling machine; and
- (5) The exact kinds, quantities and forms of illegal gambling machines, the exact amount of any monetary contents of any machine and the exact amount of any associated proceeds held in custody or disposed of. [PL 2005, c. 207, §2 (AMD).]

B. The records must be open to inspections by all federal and state officers authorized by the laws of the United States, a state or territory of the United States or a foreign nation to investigate or prosecute gambling laws. [PL 2001, c. 461, §2 (NEW).]

C. The Department of Public Safety is responsible for maintaining a centralized record of illegal gambling machines seized. At least quarterly, the department shall provide a report of the disposition of property previously held by the department to the Commissioner of Administrative and Financial Services and the legislative Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [PL 2001, c. 461, §2 (NEW).]

[PL 2005, c. 207, §2 (AMD).]

5. Persons making final disposition or destruction of an illegal gambling machine, its monetary contents or any associated proceeds under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition.

[PL 2005, c. 207, §2 (AMD).]

6. An illegal gambling machine together with any monetary contents and any associated proceeds is contraband and may be seized by any law enforcement officer pursuant to subsection 7 or 8.

[PL 2005, c. 207, §2 (AMD).]

7. At the request of the State ex parte, a court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property for which forfeiture is sought under this section may issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process are subject to the provisions of applicable state law. [PL 2001, c. 461, §2 (NEW).]

B. Any property subject to forfeiture under this section may be seized upon process. [PL 2001, c. 461, §2 (NEW).]

[PL 2001, c. 461, §2 (NEW).]

8. Seizure of property forfeited under this section without process may be made when seizure is incident to a legal search or inspection if a law enforcement officer has probable cause to believe the property seized is an illegal gambling machine.

[PL 2001, c. 461, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 461, §2 (NEW). PL 2003, c. 687, §A8 (AMD). PL 2003, c. 687, §B11 (AFF). PL 2005, c. 207, §2 (AMD). PL 2011, c. 559, Pt. A, §20 (AMD).

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