

Underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 670

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

TIMOTHY Z. JENNINGS

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR DISBURSEMENT OF PROCEEDS FROM THE SALE OF A MOTOR VEHICLE USED TO COMMIT THE OFFENSE OF SHOOTING AT OR FROM A MOTOR VEHICLE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-3-8.1 NMSA 1978 (being Laws 1993, Chapter 78, Section 2) is amended to read:

"30-3-8.1. SEIZURE AND FORFEITURE OF MOTOR VEHICLE--  
PROCEDURE--DISBURSEMENT OF PROCEEDS FROM SALE OF THE MOTOR VEHICLE--EXCEPTION.--

A. A motor vehicle shall be subject to seizure and forfeiture when the vehicle is used or intended for use in the commission of the offense of shooting at or from a motor vehicle pursuant to Subsection B of Section 30-3-8 NMSA 1978.

B. A motor vehicle subject to seizure and forfeiture

Underscored material = new  
[bracketed material] = delete

1 may be seized by a law enforcement officer:

2 (1) upon an order issued by the district court  
3 having jurisdiction;

4 (2) without an order if the seizure is incident  
5 to an arrest; or

6 (3) without an order if the seizure is incident  
7 to a search under a valid search warrant.

8 C. In the event of seizure pursuant to Subsection B  
9 of this section, proceedings under the Rules of Civil Procedure  
10 for the District Courts and Subsection D of this section shall  
11 be instituted promptly.

12 D. A motor vehicle seized under this section shall  
13 not be subject to replevin, but is deemed to be in the custody  
14 of the seizing law enforcement agency, subject only to the  
15 orders and decrees of the district court. When a motor vehicle  
16 is seized pursuant to the provisions of this section, a law  
17 enforcement officer may remove the property to a place  
18 designated by the district court or by the head of the officer's  
19 agency for disposition in accordance with the law.

20 E. When a vehicle is forfeited pursuant to this  
21 section, the seizing law enforcement agency shall sell the motor  
22 vehicle at a public auction, and the proceeds, after all costs  
23 for impoundment, forfeiture and sale are repaid, shall be  
24 ~~[forwarded to the state treasurer for credit to the crime~~  
25 ~~victims reparation fund pursuant to Section 31-22-21 NMSA 1978~~

. 111097. 1

Underscored material = new  
[bracketed material] = delete

1 ~~within thirty days. If the sale of the motor vehicle does not~~  
2 ~~cover the cost of impounding, forfeiting and selling the motor~~  
3 ~~vehicle, the law enforcement agency may deduct the uncovered~~  
4 ~~portion of the cost from the proceeds of the next sale]~~

5 disbursed to the following entities in the following amounts:

6 (1) fifty percent of the proceeds shall be  
7 forwarded to the victim of the criminal offense of shooting at  
8 or from a motor vehicle, for which the motor vehicle was seized,  
9 forfeited and sold;

10 (2) twenty-five percent of the proceeds shall  
11 be forwarded to the office of the district attorney for the  
12 judicial district in which the motor vehicle was seized,  
13 forfeited and sold pursuant to the provisions of this section;

14 and

15 (3) twenty-five percent of the proceeds shall  
16 be retained by the seizing law enforcement agency.

17 F. No motor vehicle shall be subject to forfeiture  
18 when the owner of the motor vehicle establishes that the offense  
19 of shooting at or from a motor vehicle pursuant to Subsection B  
20 of Section 30-3-8 NMSA 1978 was committed without his knowledge  
21 or consent. A forfeiture of a motor vehicle encumbered by a  
22 recorded bona fide security interest shall be subject to the  
23 interest of the secured party if the secured party did not have  
24 knowledge of or did not consent to the offense of shooting at or  
25 from a motor vehicle pursuant to Subsection B of Section 30-3-8

. 111097. 1

Underscored material = new  
~~[bracketed material] = delete~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

NMSA 1978. "

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1996.

- 4 -