



## Ohio Revised Code

### Section 4503.234 Order of criminal forfeiture of vehicle.

Effective: September 28, 2012

Legislation: Senate Bill 337 - 129th General Assembly

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(A) If a court orders the criminal forfeiture of a vehicle pursuant to section 4503.233, 4503.236, 4510.11, 4510.14, 4510.161, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code, the order shall be issued and enforced in accordance with this division, subject to division (B) of this section. An order of criminal forfeiture issued under this division shall authorize an appropriate law enforcement agency to seize the vehicle ordered criminally forfeited upon the terms and conditions that the court determines proper. No vehicle ordered criminally forfeited pursuant to this division shall be considered contraband for purposes of Chapter 2981. of the Revised Code, but the law enforcement agency that employs the officer who seized it shall hold the vehicle for disposal in accordance with this section. A forfeiture order may be issued only after the offender has been provided with an opportunity to be heard. The prosecuting attorney shall give the offender written notice of the possibility of forfeiture by sending a copy of the relevant uniform traffic ticket or other written notice to the offender not less than seven days prior to the date of issuance of the forfeiture order. A vehicle is subject to an order of criminal forfeiture pursuant to this division upon the conviction of the offender of or plea of guilty by the offender to a violation of division (A) of section 4503.236, section 4510.11, 4510.14, or 4511.203, or division (A) of section 4511.19 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those sections or divisions.

(B)(1) Prior to the issuance of an order of criminal forfeiture pursuant to this section, the law enforcement agency that employs the law enforcement officer who seized the vehicle shall conduct or cause to be conducted a search of the appropriate public records that relate to the vehicle and shall make or cause to be made reasonably diligent inquiries to identify any lienholder or any person or entity with an ownership interest in the vehicle. The court that is to issue the forfeiture order also shall cause a notice of the potential order relative to the vehicle and of the expected manner of disposition of the vehicle after its forfeiture to be sent to any lienholder or person who is known to the court to have any right, title, or interest in the vehicle. The court shall give the notice by certified mail, return receipt requested, or by personal service.



(2) No order of criminal forfeiture shall be issued pursuant to this section if a lienholder or other person with an ownership interest in the vehicle establishes to the court, by a preponderance of the evidence after filing a motion with the court, that the lienholder or other person neither knew nor should have known after a reasonable inquiry that the vehicle would be used or involved, or likely would be used or involved, in the violation resulting in the issuance of the order of criminal forfeiture or the violation of the order of immobilization issued under section 4503.233 of the Revised Code, that the lienholder or other person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, and that the lien or ownership interest was perfected pursuant to law prior to the seizure of the vehicle under section 4503.236, 4510.41, 4511.195, or 4511.203 of the Revised Code. If the lienholder or holder of the ownership interest satisfies the court that these criteria have been met, the court shall preserve the lienholder's or other person's lien or interest, and the court either shall return the vehicle to the holder, or shall order that the proceeds of any sale held pursuant to division (C)(2) of this section be paid to the lienholder or holder of the interest less the costs of seizure, storage, and maintenance of the vehicle. The court shall not return a vehicle to a lienholder or a holder of an ownership interest unless the lienholder or holder submits an affidavit to the court that states that the lienholder or holder will not return the vehicle to the person from whom the vehicle was seized pursuant to the order of criminal forfeiture or to any member of that person's family and will not otherwise knowingly permit that person or any member of that person's family to obtain possession of the vehicle.

(3) No order of criminal forfeiture shall be issued pursuant to this section if a person with an interest in the vehicle establishes to the court, by a preponderance of the evidence after filing a motion with the court, that the person neither knew nor should have known after a reasonable inquiry that the vehicle had been used or was involved in the violation resulting in the issuance of the order of criminal forfeiture or the violation of the order of immobilization issued under section 4503.233 of the Revised Code, that the person did not expressly or impliedly consent to the use or involvement of the vehicle in that violation, that the interest was perfected in good faith and for value pursuant to law between the time of the arrest of the offender and the final disposition of the criminal charge in question, and that the vehicle was in the possession of the interest holder at the time of the perfection of the interest. If the court is satisfied that the interest holder has met these criteria, the court shall preserve the interest holder's interest, and the court either shall return the vehicle to the interest holder or order that the proceeds of any sale held pursuant to division (C) of this section be paid to the holder of the interest less the costs of seizure, storage, and maintenance of the vehicle.



The court shall not return a vehicle to an interest holder unless the holder submits an affidavit to the court stating that the holder will not return the vehicle to the person from whom the holder acquired the holder's interest, nor to any member of that person's family, and the holder will not otherwise knowingly permit that person or any member of that person's family to obtain possession of the vehicle.

(C) A vehicle ordered criminally forfeited to the state pursuant to this section shall be disposed of as follows:

(1) It shall be given to the law enforcement agency that employs the law enforcement officer who seized the vehicle, if that agency desires to have it;

(2) If a vehicle is not disposed of pursuant to division (C)(1) of this section, the vehicle shall be sold, without appraisal, if the value of the vehicle is two thousand dollars or more as determined by publications of the national auto dealer's association, at a public auction to the highest bidder for cash. Prior to the sale, the prosecuting attorney in the case shall cause a notice of the proposed sale to be given in accordance with law. The court shall cause notice of the sale of the vehicle to be published in a newspaper of general circulation in the county in which the court is located at least seven days prior to the date of the sale. The proceeds of a sale under this division or division (F) of this section shall be applied in the following order:

(a) First, they shall be applied to the payment of the costs incurred in connection with the seizure, storage, and maintenance of, and provision of security for, the vehicle, any proceeding arising out of the forfeiture, and if any, the sale.

(b) Second, the remaining proceeds after compliance with division (C)(2)(a) of this section, shall be applied to the payment of the value of any lien or ownership interest in the vehicle preserved under division (B) of this section.

(c) Third, the remaining proceeds, after compliance with divisions (C)(2)(a) and (b) of this section, shall be applied to the appropriate funds in accordance with divisions (B) and (C) of section 2981.13 of the Revised Code, provided that the total of the amount so deposited under this division shall not exceed one thousand dollars. The remaining proceeds deposited under this division shall



be used only for the purposes authorized by those divisions and division (D) of that section.

(d) Fourth, the remaining proceeds after compliance with divisions (C)(2)(a) and (b) of this section and after deposit of a total amount of one thousand dollars under division (C)(2)(c) of this section shall be applied so that fifty per cent of those remaining proceeds is paid into the reparation fund established by section 2743.191 of the Revised Code, twenty-five per cent is paid into the drug abuse resistance education programs fund created by division (F)(2)(e) of section 4511.191 of the Revised Code and shall be used only for the purposes authorized by division (F)(2)(e) of that section, and twenty-five per cent is applied to the appropriate funds in accordance with divisions (B) and (C) of section 2981.13 of the Revised Code. The proceeds deposited into any fund described in section 2981.13 of the Revised Code shall be used only for the purposes authorized by divisions (B)(4)(c), (C), and (D) of that section.

(D) Except as provided in division (E) of section 4511.203 of the Revised Code and notwithstanding any other provision of law, neither the registrar of motor vehicles nor any deputy registrar shall accept an application for the registration of any motor vehicle in the name of any person, or register any motor vehicle in the name of any person, if both of the following apply:

(1) Any vehicle registered in the person's name was criminally forfeited under this section and section 4503.233, 4503.236, 4510.10, 4510.11, 4510.14, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code;

(2) Less than five years have expired since the issuance of the most recent order of criminal forfeiture issued in relation to a vehicle registered in the person's name.

(E) If a court orders the criminal forfeiture to the state of a vehicle pursuant to section 4503.233, 4503.236, 4510.10, 4510.11, 4510.14, 4510.161, 4510.41, 4511.19, 4511.193, or 4511.203 of the Revised Code, the title to the motor vehicle is assigned or transferred, and division (B)(2) or (3) of this section applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealer's association. The proceeds from any fine imposed under this division shall be distributed in accordance with division (C)(2) of this section.



(F) As used in this section and divisions (B)(4)(c), (C), and (D) of section 2981.13 of the Revised Code in relation to proceeds of the sale of a vehicle under division (C) of this section, "prosecuting attorney" includes the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer of a municipal corporation who prosecutes the case resulting in the conviction or guilty plea in question.

(G) If the vehicle to be forfeited has an average retail value of less than two thousand dollars as determined by publications of the national auto dealer's association, no public auction is required to be held. In such a case, the court may direct that the vehicle be disposed of in any manner that it considers appropriate, including assignment of the certificate of title to the motor vehicle to a salvage dealer or a scrap metal processing facility. The court shall not transfer the vehicle to the person who is the vehicle's immediate previous owner.

If the court assigns the motor vehicle to a salvage dealer or scrap metal processing facility and the court is in possession of the certificate of title to the motor vehicle, it shall send the assigned certificate of title to the motor vehicle to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located. The court shall mark the face of the certificate of title with the words "FOR DESTRUCTION" and shall deliver a photocopy of the certificate of title to the salvage dealer or scrap metal processing facility for its records.

If the court is not in possession of the certificate of title to the motor vehicle, the court shall issue an order transferring ownership of the motor vehicle to a salvage dealer or scrap metal processing facility, send the order to the clerk of the court of common pleas of the county in which the salvage dealer or scrap metal processing facility is located, and send a photocopy of the order to the salvage dealer or scrap metal processing facility for its records. The clerk shall make the proper notations or entries in the clerk's records concerning the disposition of the motor vehicle.