

MICHIGAN VEHICLE CODE (EXCERPT)
Act 300 of 1949

257.625n Forfeiture of vehicle or return to lessor.

Sec. 625n.

(1) Except as otherwise provided in this section and section 304 and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of section 625(1) described in section 625(9)(b) or (c), a violation of section 625(3) described in section 625(11)(b) or (c), a violation of section 625(4), (5), or (7), or a violation of section 904(4) or (5), or, beginning October 31, 2010, a violation of section 626(3) or (4), may require 1 of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.

(b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized under a seizure order issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within 7 days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to any co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 625 or a local ordinance substantially corresponding to section 625, or multiple suspensions, restrictions, or denials under section 904, or both. If the defendant has multiple convictions under section 625 or multiple suspensions, restrictions, or denials under section 904, or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle pursuant to the procedures under section 252g(1) and dispose of the proceeds in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.

(b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.

(c) Satisfy any order of restitution entered in the prosecution for the violation.

(d) Pay any outstanding accrued towing and storage fees.

(e) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.

(f) Pay any outstanding lien against the property that has been imposed by a governmental unit.

(g) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(h) The balance remaining after the payment of items (a) through (g) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used

to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

(9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.

(10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.

(12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other law of this state or a local ordinance substantially corresponding to this section.

History: Add. 1996, Act 491, Eff. Apr. 1, 1997 ;-- Am. 1998, Act 349, Eff. Oct. 1, 1999 ;-- Am. 2008, Act 463, Eff. Oct. 31, 2010 ;-- Am. 2008, Act 539, Imd. Eff. Jan. 13, 2009 ;-- Am. 2010, Act 155, Eff. Jan. 1, 2011