

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

§ 2151. Impoundment.

(a) The following shall be subject to impoundment whereby the Commonwealth shall take temporary physical custody and no property ownership rights shall be transferred:

(1) All vehicles driven or operated by motorists who during the operation of said vehicles, violate Title 6 and/or Title 9 of the CNMI Code, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances, except that:

(i) No vehicle or conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be impounded under the provisions of this section unless it appears that the owner or other person in charge of the vehicle was a consenting party or privy to a violation of this title; and

(ii) No vehicle or conveyance shall be impounded under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state, territory, or the Commonwealth.

(b) Any property subject to impoundment under this title may be seized by the Department of Public Safety upon citation issued by Department of Public Safety or any court of the Commonwealth having jurisdiction over the property, except that the impoundment without citation or process may be made when:

(1) The impoundment is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The Department of Public Safety has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(3) The Department of Public Safety has probable cause to believe that the property has been used or is intended to be used in violation of this title.

In the event of impoundment pursuant to this section, proceedings under subsection (d) of this section shall be instituted promptly.

(c) Property taken or detained under this section shall be repleviable, and shall be deemed to be in the custody of the Department of Public Safety, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is impounded under the provisions of this title, the Department of Public Safety may:

(1) Place the property under seal;

(2) Remove the property to a place designated by the Department of Public Safety; or

(3) Require that the supply division of the Commonwealth government take custody of the property and remove it to an appropriate location for disposition in accordance with the law.

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

(d) The provisions of law relating to the impoundment, seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs law; the disposition of property or the proceeds from its sale; the remission or mitigation of forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title insofar as applicable and not inconsistent with these provisions; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this title by such officers, agents, or other persons as may be authorized or designated for that purpose by the Department of Public Safety, except to the extent that such duties arise from impoundment, seizures, and forfeitures effected by any officer.

(e) Whenever property is impounded under this section and subsequently forfeited pursuant to [6 CMC § 2150](#), the Department of Public Safety may:

- (1) Retain the property for official use;
- (2) Sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;
- (3) Require that the supply division take custody of the property and remove it for disposition in accordance with law; or
- (4) Forward it to any Commonwealth or federal agency for disposition (including delivery for medical or scientific use to any federal agency under regulations of the Department of Public Safety).

The proceeds from any sale under subsection (e)(2) of this section and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for impoundment, forfeiture and sale, including expenses of impoundment, seizure, maintenance of custody, advertising, and court costs. The Department of Public Safety shall forward to the Treasurer of the Commonwealth for deposit in the General Fund of the Commonwealth any moneys and proceeds remaining after payment of those expenses.

(f) The Department of Public Safety is hereby authorized to promulgate regulations for the purposes of charging for towing and impoundment fees and to collect fees which shall be accounted for and deposited into an account within the Department of Finance. The Commissioner of DPS shall be the expenditure authority for funds collected pursuant to this provision and shall have the authority to contract with any person or entity for the purpose of providing and operating an impound facility in the First, Second, and Third Senatorial Districts until such time that such facilities can be established by DPS in each respective district.

Source: PL 18-60 § 2 (Aug. 1, 2014), modified.

Commission Comment: The Commission corrected the capitalization of the word “impoundment” in subsection (a) pursuant to 1 CMC § 3806(f). The

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

Commission corrected the word “section” to a section symbol in subsection (e) pursuant to 1 CMC § 3806(g). The Commission corrected “promulgate” to “to promulgate,” “accounted” to “be accounted,” and inserted a comma after the word “Second” in subsection (f) pursuant to 1 CMC § 3806(g).

PL 18-60 (Aug. 1, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Department of Public Safety has been encountering a significant amount of reported illegal highway racing activities and instances where operators of motor vehicles are pulled over by police officers for criminal and traffic violations that warrant arrest action on the part of the officers. Most of these motorists had opted not to have their vehicles impounded for safekeeping purposes. As a result of this decision, vehicles are often left behind. These vehicles present liabilities to the CNMI Department of Public Safety or present serious vandalism public safety risks.

Additionally, motor vehicles are the primary source of transport for persons who commit violations of law. Despite this being the case, CNMI law currently has no penalties for the use of vehicles or equipment on our taxpayer funded highways. The Commonwealth’s police force is overtaxed by these activities and the amount of incidents only continues to rise because adequate deterrents do not exist and drug dealers and burglars feel free to use vehicles on public highways during the commission of their crimes.

Based on the foregoing, the Legislature finds that legislation is needed to authorize the CNMI Department of Public Safety (DPS) to impound vehicles driven or operated by motorists who violate certain criminal or traffic statutes and an arrest is effectuated. In addition, DPS should also be empowered to promulgate regulations for the purposes of charging for towing and impoundment fees and to collect fees. These fees could be used for the purposes of maintaining impoundment facilities and to maintain and acquire emergency response police vehicles.

This new provision tracks in significant part 6 CMC section 2150 which is the Forfeiture statute that currently exists. Significantly, this provision differs from the Forfeiture provision because an impoundment is temporary as opposed to permanent in nature. Thus, any vehicle or property that is impounded will be kept securely only until the property is properly released by DPS following the payment of the appropriate fees or an order issued by the CNMI courts. Due to this lack of permanency the Due Process required should not arise to the level of a trial before a bench or jury. DPS should promulgate policies and procedures that are legal and appropriate for impoundment on a temporary basis without the need for a further significant burden on the CNMI courts.

Lastly, the CNMI Department of Public Safety is in the process of acquiring a warehouse facility from the CNMI Department of Public Lands for the purposes of ensuring that these vehicles are safely kept and the facility is properly managed. This legislation authorizes DPS to impound vehicles driven or operated by motorists who violate an arrestable crimi-

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 2: CONTRABAND OFFENSES

nal or traffic offense. Fees collected may be used for the purposes of maintaining impoundment facilities and to maintain and acquire emergency response police vehicles, or for other purposes determined proper by the Department of Public Safety.