

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENFORCEMENT

DIRECTIVE

DIRECTIVE NUMBER: O-23-25

SUBJECT: SEIZURE, FORFEITURE, AND DISPOSAL OF PROPERTY UNDER DWI, FLEEING A PEACE OFFICER, AND OTHER CRIMINAL CODE PROVISIONS

EFFECTIVE DATE: 05/30/2025

SPECIAL INSTRUCTIONS: POST Board Mandated Policy—Reviewed Annually

REFERENCE: Minnesota Statutes: 169A.63, 609.487, 609.531 to 609.5318, 97A.223; Directives A-13, O-4, O-6, O-11, O-22.

DISTRIBUTION: All Conservation Officers

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This directive is for division use only and does not modify or supersede any law and should not apply to any criminal or civil proceeding except for civil proceedings related to departmental administrative actions. This directive should not be viewed as creating a higher standard of safety or care in any evidentiary sense. Violations of this directive may form the basis for departmental administrative action.

I. Purpose

This directive provides guidance to officers regarding seizures and forfeitures related to driving while intoxicated (DWI), fleeing a peace officer, controlled substances, felon in possession of a firearm, and other criminal code provisions. In addition, this policy provides guidance on the safe storage and proper disposition of seized property that is subject to forfeiture.

II. Policy

It is the policy of the division to consistently pursue the seizure and forfeiture of motor vehicles, firearms, contraband, and other property under the laws governing driving while intoxicated (DWI), fleeing a peace officer, controlled substances, felon in possession of a firearm, and other criminal code provisions.

III. Definitions

- A. **Contraband:** any property that is illegal to possess under the state or federal law that officers are authorized to enforce. Contraband shall be seized and not returned, unless otherwise ordered by the court.
- B. **DWI:** as defined in Minn. Stat. § 169A.20.
- C. **DWI forfeiture:** seizure and forfeiture of a motor vehicle as outlined in Minn. Stat. § 169A.63.
- D. **Fleeing a peace officer in a motor vehicle or other:** as defined in Minn. Stat. § 609.487.
- E. **Forfeiture:** the transfer of ownership of seized property to the state. The state cannot claim ownership by forfeiture unless it has the legal authority to do so. The state can acquire property through either administrative, judicial, or summary forfeiture.
- F. **Motor vehicle:** as defined in Minn. Stat. § 169A.03, which includes motorboats in operation and off-road vehicles.
- G. **Property:** all tangible items, including but not limited to wild animals, contraband, equipment, vehicles, and other evidence that are taken into custody by an officer in the course of the officer's duties.
- H. **Prosecuting authority:** county attorneys are the primary prosecuting authority for violations under Minn. State. § 169A, § 609.487, and any associated forfeiture actions.
- I. **Retention period:** 90 days after final court disposition or 90 days from the date of seizure, whichever is longer, unless otherwise required by statute or the Director.
- J. **Security interest:** means a bona fide security interest perfected according to Minn. Stat. § 168A.17, subd. 2, based on a loan or other financing that, if a vehicle is required to be registered under chapter 168, is listed on the vehicle's title.
- K. **Seizure:** the act of temporarily taking possession of property pursuant to an officer's legal authority provided by statute.

IV. DWI Forfeiture

- A. **Seizure of Property Subject to Forfeiture**
 - 1. Motor vehicle subject to forfeiture.
 - a. A motor vehicle is subject to forfeiture if it was used to commit:
 - i. a violation of Minn. Stat. § 169A.20 (driving while impaired) under the circumstances described in Minn. Stat. § 169A.24 (first-degree driving while impaired); or
 - ii. a violation of section 169A.20 or an ordinance in conformity with it within ten years of the first of two qualified prior impaired driving incidents.
 - b. Motorboats subject to forfeiture under this section also include their trailers.
 - c. Either administrative or judicial forfeiture procedures may be pursued. See Minn. Stat. § 169A.63.
 - 2. Seizure. A motor vehicle may be seized without process if the seizure is incident to a lawful arrest or lawful search.
 - a. Officers shall receive approval from a supervisor prior to the seizure and/or towing of a motor vehicle.
 - 3. Forfeiture limitations.
 - a. Vehicles leased for less than 180 days are not subject to forfeiture.

- b. A vehicle encumbered by a perfected security interest, or subject to a lease of 180 days or more, is subject to the interest of the secured party or lessor unless the party of lessor had knowledge of or consented to the act upon which the forfeiture is based.
 - i. When the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle.
 - o If the sale of the vehicle is conducted in a commercially reasonable manner consistent with the provisions of Minn. Stat. § 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds.
 - o The validity and amount of a non-perfected security interest must be established by its holder by clear and convincing evidence. Minn. Stat. § 169A.63, subd. 7(b).
4. Field initiated requirements.
- a. Seizure tag. A seizure tag shall be completed for all property seized. Evidence documentation procedures shall be followed per Directive O-11.
 - b. Towing. If applicable, and after supervisory approval, a motor vehicle is seized and towed, the officer will complete a division tow sheet/impound inventory form (document in Power DMS). Tow invoices shall be uploaded to the Initial Complaint Report (ICR) and a copy sent to the regional office by the primary officer.
 - c. Lien status. Officers shall check the lien status of a motor vehicle by performing a records check using the CJIS database with a QML search. Officers shall also verbally check/verify lien information with the operator/owner.
 - d. Forfeiture checklist. Officer must complete the Enforcement Forfeiture Checklist and upload it to the ICR (documents located under forms in PowerDMS). The officer shall continue to update the document as steps are verified and completed.
 - e. Notice of Seizure and Intent to Forfeit Vehicle/Property. Officer shall serve the driver of operator of the motor vehicle and any person known to have an ownership, possessory, or security interest in the motor vehicle with a Notice of Seizure and Intent to Forfeit Vehicle/Property form (driver documents are created in E charging, other interested parties can be issued form located in Power DMS)). The form shall be served at the time of seizure, if possible, and in no case later than 24 hours of arrest; if service is not completed at the time of seizure and the officer will not be on duty the next day, the submission must be completed before the officer goes off duty. A notice sent by certified mail to the registered owner's address shown in Department of Public Safety (DPS) records is considered sufficient notice.
 - f. ICR. Officers will complete an ICR and enter property as required in Directive O-11 (Property and Evidence Standards), and A-13 (Written Report Requirements). The forfeiture DWI custom attribute shall be checked.

- i. All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible. If the report will not be completed within 24 hours, a supervisor shall be notified.
 - ii. All reports must include a description of the items seized, where the property is being stored, the name of the individual served, the date the seizure form was served, the name of the serving officer, and whether or not the individual signed the Notice of Seizure and Intent to Forfeit form.
- g. Flagging of motor vehicle title.
 - i. DPS registered motor vehicle. If a motor vehicle is seized that is registered under Minn. Stat. Chapter 168, the officer shall notify the DPS, Driver and Vehicle Services Division, that the vehicle is subject to forfeiture and ask them to “flag” the title by placing a note on the DPS copy of the vehicle forfeiture form included in the BCA e-Charging documents so that no additional liens may be placed against the motor vehicle.
 - ii. Department of Natural Resources (DNR) registered motor vehicle. If the motor vehicle is an OHV or motorboat, the officer shall notify the administrative captain who shall then request the DNR license center flag the registration record as subject to forfeiture.

B. Storage of Seized Property

1. All property other than motor vehicles shall be stored in a secure area that will protect it from damage and maintains proper chain of custody per Directive 0-11.
2. Motor vehicles. The officer will arrange for secure storage at a DNR facility or other law enforcement facility to minimize storage costs. If the vehicle was towed to a commercial impound lot, the vehicle shall be moved to a state-owner or other low-cost secure facility within 48 hours. Storage invoices shall be uploaded to the ICR and a copy provided to the regional office by the primary officer.

C. Release of Property Prior to Case Final Disposition

Prior to the releasing of a motor vehicle, the officer or their supervisor will ensure that the owner or the owner’s authorized agent signs a division seizure return form. In all other returning or releasing of property, the officer or their supervisor will ensure that the division seizure return receipt is completed.

A motor vehicle or watercraft may be released in the following circumstances:

1. Bond by owner. A request to release a vehicle by bond by the owner per Minn. Stat. § 169A.63, subd. 4, shall be forwarded to the supervisor. The supervisor shall consult with their regional or program manager for guidance on how to disable the vehicle in accordance with the statutory requirement.
2. Secured party release. A financial institution with a valid security interest in or a valid lease covering a forfeited vehicle may choose to dispose of the vehicle. A financial institution wishing to dispose of a vehicle shall notify the agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. A supervisor shall coordinate the secured party request and prepare a secured party release.
 - a. The vehicle shall be released to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease

agreement and the financial institution agrees not to sell the vehicle to a member of the violator's household, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in Minn. Stat. § 336.9-610.

- b. After disposing of the forfeited vehicle, the financial institution shall reimburse the agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in Minn. Stat. § 169A.63, subd. 9.
3. Ignition interlock release. If ignition interlock/acceptance into a treatment court is initiated forfeiture proceedings are stayed and the vehicle must be returned per Minn. Stat. § 169A.63, subd.13.
4. Court order. If the court orders property to be returned, the officer shall notify their supervisor to facilitate the return.
5. All applicable tow and storage fees are paid by owner prior to vehicle being released.

D. Disposal of Forfeited Motor Vehicle

1. Sales of DWI forfeited motor vehicles and watercraft shall be coordinated through the regional manager with their respective Management Resources bureau manager. The regional manager shall forward copies of the sale documentation, along with the forfeiture certification letter from the county attorney, to the administrative manager.
2. The administrative manager will work with the division's business office to confirm proper deposit of proceeds and coordinate any funds owed to the county attorney as required by law. Proceeds from the sale of a forfeited vehicle will be distributed per Minn. Stat. § 169A.63, subd. 10.

V. Fleeing a Peace Officer Forfeiture

A. Seizure of Property Subject to Forfeiture.

1. Motor vehicles used to flee a peace officer in violation of Minn. Stat. § 609.487 and endangers life or property is subject to forfeiture under Minn. Stat. § 609.5312, subd. 4. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Forfeiture under this section is governed by judicial forfeiture procedures. See Minn. Stat. § 609.5313.
2. Seizure.
 - a. A motor vehicle may be seized without process if the seizure is incident to a lawful arrest or lawful search.
 - b. Officers shall receive approval from a supervisor prior to the seizure and/or towing of a motor vehicle.
3. Special hearing requirements. When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the owner within 48 hours of the seizure. For the purposes of this section, seizure occurs either: (1) at the date at which personal service of process upon the registered owner is made; or (2) at the date when the registered owner has been notified by

certified mail at the address listed in DPS's computerized motor vehicle registration records.

- a. Note: off-road recreational vehicles and motorized watercraft are exempt from the 96/48-hour notification requirements. Minn. Stat. § 609.5312, subd. 4(e).
4. Forfeiture limitations. The vehicle may not be forfeited if one of the following conditions exist:
 - a. The owner did not have knowledge of the offense.
 - b. The vehicle was leased for fewer than 180 days.
5. Field initiated requirements.
 - a. Seizure tag. A seizure tag shall be completed for all property seized. Evidence documentation procedures shall be followed per Directive O-11.
 - b. Towing. If applicable, and after supervisory approval, a motor vehicle is seized and towed, a division tow sheet/impound inventory form will be completed (document found under forms in PowerDMS). Tow invoices shall be uploaded to the ICR and a copy sent to the region office by the primary officer.
 - c. Lien status. Officers shall check the lien status of a motor vehicle by performing a records check using the CJIS database with a QML search. Officers shall also verbally check/verify lien information with the operator/owner.
 - d. Notice of Seizure and Intent to Forfeit. Officer shall serve the driver of operator of the motor vehicle and any person known to have an ownership, possessory, or security interest in the motor vehicle with a Notice of Seizure and Intent to Forfeit form (document located in PowerDMS). The form shall be served at the time of seizure, if possible, and in no case later than 24 hours of arrest; if service is not completed at the time of seizure and the officer will not be on duty the next day, the submission must be completed before the officer goes off duty. A notice sent by certified mail to the registered owner's address shown in DPS records is considered sufficient notice.
 - e. ICR. Officers will complete an ICR and enter property as required in Directive O-11: Property and Evidence Standards, and A-13: Written Report Requirements. The forfeiture DWI custom attribute shall be checked.
 - i. All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible. If the report will not be completed within 24 hours, a supervisor shall be notified.
 - ii. All reports must include a description of the items seized, where the property is being stored, the name of the individual served, the date the seizure form was served, the name of the serving officer, and whether or not the individual signed the Notice of Seizure and Intent to Forfeit form.
 - f. Flagging of motor vehicle title.
 - i. DPS registered vehicle: If a motor vehicle is seized that is registered under Minn. Stat. Chapter 168, the officer shall notify the DPS, Driver and Vehicle Services Division, that the vehicle is subject to forfeiture and ask them to "flag" the title by placing a note on the DPS copy of the vehicle forfeiture form included in the BCA e-Charging documents so that no additional liens may be placed against the vehicle.
 - ii. DNR registered vehicle: If the vehicle is an OHV or motorboat, the officer shall notify the administrative captain who shall then request

the DNR license center flag the registration record as subject to forfeiture.

B. Storage of Seized Property

1. All property other than motor vehicles shall be stored in a secure area that will protect it from damage and maintains property chain of custody per Directive O-11.
2. Motor vehicle and watercraft. The officer will arrange for secure storage at a DNR facility or other law enforcement facility to minimize storage costs. If the vehicle was towed to a commercial impound lot, the vehicle shall be moved to a state owned or other low-cost secure facility within 48 hours. Storage invoices shall be uploaded to the ICR and a copy provided to the regional office by the primary officer.

C. Release of Property

1. Release authorization. Prior to the releasing of a motor vehicle, the officer or their supervisor will ensure that the owner or the owner's authorized agent signs the division tow sheet/impound inventory form release authorization section.
 - a. In all other returning or releasing of property, the officer or their supervisor will ensure that the division seizure return receipt is completed.
2. A motor vehicle may be released in the following circumstances:
 - a. Bond by owner. A request to release property by bond by the owner or person having legal right to possess shall be forwarded to the supervisor. The supervisor shall consult with their regional or program manager for guidance to facilitate the return. See Minn. Stat. § 609.531, subd. 5a. The owner of a motor vehicle or watercraft may bond their property out.
 - b. Court order. If the court orders property to be returned, the officer shall notify their supervisor to facilitate the return.

D. Disposal of Forfeited Motor Vehicle

1. Sales of forfeited motor vehicles and watercraft shall be coordinated through the regional manager and their respective Management Resources regional manager. The regional manager shall forward copies of the sale documentation to, along with the forfeiture certification letter from the county attorney, to the administrative manager.
2. The administrative manager will work with the division's business office to confirm proper deposit of proceeds and coordinate any funds owed to the county attorney as required by law. Proceeds from the sale of a forfeited vehicle will be distributed per Minn. Stat. § 609.5315.

VI. Controlled Substances Forfeiture

Unless authorized by a supervisor, officers shall not seize and proceed with forfeiture of any controlled substances under Chapter 152. Violations of these statutes shall be referred to the local agency for charging and prosecution. Officers may assist another local agency by securing the scene and preserving evidence. If an officer seizes evidence, a seizure tag shall be completed, and the evidence shall be transferred to the local agency as soon as practical.

However, controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of chapter 152 or 342, are contraband and must be seized and summarily forfeited pursuant to Minn. Stat. § 609.5316, subd. 2. (See Minn. Stat. § 152.02, subd. 2, for the list of Schedule 1 controlled substances). Controlled substances listed in Schedule I that are seized or come into the

possession of peace officers, the owners of which are unknown, are contraband and must be summarily forfeited.

If an officer seizes controlled substances and the offender is prosecuted for a drug crime, the officer must retain the controlled substances until a conviction is obtained, even if the controlled substance is contraband that is subject to summary forfeiture.

VII. Felon in Possession of a Firearm Forfeiture

Officers who find a felon in possession of a firearm in violation of Minn. Stat. § 624.713 shall seize the firearm pursuant to Minn. Stat. § 97A.223, subd. 1(a)(1). Firearms seized under this section are subject to administrative forfeiture as described in Minn. Stat. 97A.223.

A. Field initiated requirements.

1. Seizure tag. A seizure tag shall be completed for all property seized. Evidence documentation procedures shall be followed per directive O-11.
2. Enforcement Forfeiture Checklist. Officers shall complete the Enforcement Forfeiture Checklist and upload it to the ICR. The Officer shall continue to update the document as steps are verified and completed. (Document located in PowerDMS).
3. Officers shall immediately, or as soon as practical, complete the division Notice of Seizure and Intent to Forfeit Firearm for Unlawful Possession of a Firearm form (document located in PowerDMS). The form shall be served at the time of seizure, if possible, and in no case later than 24 hours of arrest; if service is not completed at the time of seizure and the officer will not be on duty the next day, the submission must be completed before the officer goes off duty.
4. ICR. Officers shall complete an ICR and enter property as required in Directive O-11 (Property and Evidence Standards), and A-13 (Written Report Requirements).
 - a. All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible. If the report will not be completed within 24 hours, a supervisor shall be notified.
 - b. All reports must include a description of the items seized, where the property is being stored, the name of the individual served, the date the seizure form was served, the name of the serving officer, and whether or not the individual signed the Notice of Seizure and Intent to Forfeit form.

VIII. Other Criminal Charges

Unless authorized by a supervisor, officers shall not proceed with forfeiture of any property resulting from a conviction under Chapter 609. Violations of these statutes shall be referred to the local agency for charging and prosecution. Officers may assist another local agency by securing the scene and preserving evidence. If an officer seizes evidence, a seizure tag shall be completed, and the evidence shall be transferred to the local agency as soon as practical.

Additionally, contraband that is part of a criminal investigation shall be turned over to the investigating agency. Officers shall get direction from a supervisor on how to dispose of contraband in their possession that is not part of an active criminal investigation by a local agency and is not contraband under game and fish laws.

IX. Required Reporting of All Forfeitures

The administrative manager shall report all forfeitures to the state auditor by the means and forms required by their office. See Minn. Stat. § 609.5315, subd. 6.

By Authority of:

**COL Rodmen Smith
Division Director
Division of Enforcement**