

## Seizure of Property

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Seizure of Property .....	3
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## Seizure of Property

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MTAS-404

### **Seizure of Illegal Liquor**

City police officers have a duty to search for and capture illicit stills and associated paraphernalia. They also are required "to summarily destroy and render useless such property" and "all whiskey, beer, or other intoxicants" found at or near the site except beverages on which a federal tax has been paid. Such destruction must take place in the presence of "at least two credible witnesses." Within five days thereafter, the officer must file a written statement of all items destroyed with the circuit or criminal court clerk of the county where seized and furnish a copy to the state Alcoholic Beverage Commission. T.C.A. § 57-9-101. Any illegally held or transported intoxicating liquors on which a federal tax has been paid and that have been seized by a city police officer must be turned over to the sheriff within five days. After subsequent sale by the state, the proceeds minus 10 percent are to be remitted to the city. T.C.A. § 57-9-106, T.C.A. § 57-9-115.

### **Seizure of Vehicle for DUI**

A vehicle used in the commission of a person's second or subsequent DUI conviction is subject to seizure and forfeiture, upon conviction. (Effective July 1, 2003, a blood alcohol concentration level of .08 percent while operating a vehicle constitutes DUI.) A vehicle used in violation of the statute on driving with a suspended or revoked license due to a DUI conviction also is subject to seizure and forfeiture, and the seizure can take place at the time of arrest. Revenue from the sale of such vehicles remains with the local government responsible for the seizure to pay the reasonable and direct expenses of confiscation, towing, storage, and sale. Remaining revenue must be transmitted to the Department of Health by June 30 of each year. T.C.A. § 40-33-211.

### **Seizure of Vehicle for Arson**

Vehicles used in arson crimes also are subject to forfeiture. T.C.A. § 39-14-307.

### **Seizure of Vehicle for Promoting or Patronizing Prostitution**

The vehicle in which a second or subsequent offense of promoting or patronizing prostitution is committed is subject to seizure and forfeiture. A seizure may not be made before conviction. The violations must occur in Tennessee on or after July 1, 2002, and the second or subsequent offense must occur within five years of the prior offense. T.C.A. § 29-3-101.

### **Seizure of Property Used in Sex Crime**

Vehicles and other property used in certain sex crimes are subject to seizure and forfeiture. Proceeds from forfeitures accrue to the state to be allocated to the child abuse fund. T.C.A. § 40-33-211(h).

### **Seizure of Property Used in Drug Offenses**

Property used to commit drug offenses, such as vehicles, aircraft, or boats, and property acquired with the proceeds of drug felonies, may be taken through a civil procedure instituted by the district attorney or through an administrative procedure before the commissioner of safety and sold at public auction. Sale proceeds are earmarked for the city's drug enforcement program and certain other law enforcement expenses. Any vehicle seized may be used in the local drug enforcement program for not more than five years. T.C.A. § 39-17-420, T.C.A. §§ 53-11-201–204.

### **Seized Conveyances Used in Robberies or Felony Thefts**

Sale proceeds from a vehicle, an aircraft, a vessel, or other conveyance forfeited because of use in a robbery or felony theft go to a city if the property was seized by its law enforcement personnel. The property must be used exclusively for law enforcement. T.C.A. § 40-33-110.

### **Seizure of Commercial Vehicles**

When seizing a commercial vehicle that the driver does not own, officers are required to make reasonable efforts to determine the name of the owner and to notify him or her of the seizure. Rental cars are included in the protection afforded by this statute. Forfeiture of commercial vehicles is governed by special rules based on ownership of the vehicle. T.C.A. §§ 40-33-201, *et seq.*

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*DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.*

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