

Burns Ind. Code Ann. § 34-24-1-1

Current through P.L. 4-2024 of the Second Regular Session of the 123rd General Assembly.

Burns' Indiana Statutes Annotated > Title 34 Civil Law and Procedure (Arts. 1 — 61) > Article 24 Civil Proceedings Related to Criminal Activities (Chs. 1 — 5) > Chapter 1 Forfeiture of Property Used in Violation of Certain Criminal Statutes (§§ 34-24-1-0.1 — 34-24-1-9)

34-24-1-1. Property which may be seized.

(a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

(iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

(iv) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(v) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(vi) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vii) Dealing in a counterfeit substance (IC 35-48-4-5).

(viii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(ix) Possession of methamphetamine (IC 35-48-4-6.1).

(x) Dealing in paraphernalia (IC 35-48-4-8.5).

(xi) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(xii) An offense under IC 35-48-4 involving a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).

(B) Any stolen (IC 35-43-4-2 or IC 35-43-4-2.2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-10-1.5.

- (D)** A bomb (as defined in IC 35-31.5-2-31) or weapon of mass destruction (as defined in IC 35-31.5-2-354) used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-31.5-2-329).
- (2)** All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit a felony terrorist offense (as defined in IC 35-50-2-18) or an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
- (A)** furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
 - (B)** used to facilitate any violation of a criminal statute; or
 - (C)** traceable as proceeds of the violation of a criminal statute.
- (3)** Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.
- (4)** A vehicle that is used by a person to:
- (A)** commit, attempt to commit, or conspire to commit;
 - (B)** facilitate the commission of; or
 - (C)** escape from the commission of;
- murder (IC 35-42-1-1), dealing in a controlled substance resulting in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.
- (5)** Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:
- (A)** Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
 - (B)** Dealing in methamphetamine (IC 35-48-4-1.1).
 - (C)** Manufacturing methamphetamine (IC 35-48-4-1.2).
 - (D)** Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
 - (E)** Dealing in a schedule IV controlled substance (IC 35-48-4-3).
 - (F)** Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).
 - (G)** Dealing in a synthetic drug (as defined in IC 35-31.5-2-321) or synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019).
 - (H)** Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).
- (6)** Equipment and recordings used by a person to commit fraud under IC 35-43-5.

- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.
- (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.
- (12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.
- (13) Property used by a person to commit counterfeiting or forgery in violation of IC 35-43-5-2.
- (14) After December 31, 2005, if a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:
 - (A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.
 - (B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.
- (15) Except as provided in subsection (e), a vehicle used by a person who operates the vehicle:
 - (A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
 - (B) on a highway while the person's driving privileges are suspended in violation of IC 9-24-19-2 through IC 9-24-19-3, if in the previous five (5) years the person has two (2) or more prior unrelated convictions for operating a vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.

If a court orders the seizure of a vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a vehicle to be registered in the name of the person whose vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).
- (16) The following real or personal property:
 - (A) Property used or intended to be used to commit, facilitate, or promote the commission of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).
 - (B) Property constituting, derived from, or traceable to the gross proceeds that a person obtains directly or indirectly as a result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or IC 30-2-13-38(f).

(17) Real or personal property, including a vehicle, that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in death).

(2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(3) IC 35-48-4-1.1 (dealing in methamphetamine).

(4) IC 35-48-4-1.2 (manufacturing methamphetamine).

(5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

(8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

(9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.

(10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.

(11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

(e) A vehicle operated by a person who is not:

(1) an owner of the vehicle; or

(2) the spouse of the person who owns the vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

History

P.L.1-1998, § 19; P.L.17-2001, § 9; P.L.3-2002, § 1; P.L.123-2002, § 30; P.L.117-2003, § 2; P.L.253-2003, § 2; P.L.45-2005, § 1; P.L.160-2005, § 17; P.L.181-2005, § 4; P.L.212-2005, § 75; P.L.1-2006, § 518; P.L.94-2006, § 11; P.L.151-2006, § 13; P.L.137-2007, § 34, eff. July 1, 2007; P.L.114-2008, § 27, emergency eff. March 24, 2008; P.L.119-2008, § 13, eff. July 1, 2008; P.L.1-2009, § 162, emergency eff. April 30, 2009; P.L.143-2009, § 44, emergency eff. July 1, 2009; P.L.138-2011, § 8, eff. July 1, 2011; P.L.182-2011, § 8, eff. July 1, 2011; P.L.114-2012, § 64, eff. July 1, 2012; P.L.125-2012, § 411, emergency eff. July 1, 2012; P.L.196-2013, § 15, emergency eff. May 7, 2013; P.L.217-2014, § 187, eff. July 1, 2014; P.L.237-2015, § 8, effective July 1, 2015; P.L.252-2017, § 7, effective July 1, 2017; P.L.144-2018, § 11, effective July 1, 2018; P.L.198-2018, § 5, effective July 1, 2018; P.L.215-2018 1st Sp. Sess., § 15, effective July 1, 2018; P.L.66-2019, § 4, effective July 1, 2019; P.L.80-2019, § 13, effective July 1, 2019; P.L.211-2019, § 43, effective July 1, 2019; P.L.142-2020, § 55, effective July 1, 2020; P.L.174-2021, § 28, effective July 1, 2021; P.L.185-2023, § 2, effective July 1, 2023.