

BILL TEXT:

STATE OF NEW YORK

2153

2005-2006 Regular Sessions

IN ASSEMBLY

January 25, 2005

Introduced by M. of A. LAFAYETTE -- Multi-Sponsored by -- M. of A. CLARK, COLTON, LAVELLE, MAYERSOHN, PHEFFER -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to authorizing a claiming authority to retain electronic equipment for law enforcement purposes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of subdivision 2 of section 1349 of
2 the civil practice law and rules, as added by chapter 655 of the laws of
3 1990, is amended to read as follows:
4 If any other provision of law expressly governs the manner of disposi-
5 tion of property subject to the judgment or order of forfeiture, that
6 provision of law shall be controlling. Upon application by a claiming
7 agent for reimbursement of moneys directly expended by a claiming agent
8 in the underlying criminal investigation for the purchase of contraband
9 which were converted into a non-monetary form or which have not been
10 otherwise recovered, the court shall direct such reimbursement from
11 money forfeited pursuant to this article. Upon application of the claim-
12 ing agent, the court may direct that any vehicles, electronic equipment
13 or devices, surveillance equipment, vessels, or aircraft forfeited
14 pursuant to this article be retained by the claiming agent for law
15 enforcement purposes, unless the court determines that such property is
16 subject to a perfected lien, in which case the court may not direct that
17 the property be retained unless all such liens on the property to be
18 retained have been satisfied or pursuant to the court's order will be
19 satisfied. In the absence of an application by the claiming agent, the
20 claiming authority may apply to the court to retain such property for
21 law enforcement purposes. Upon such application, the court may direct
22 that such property be retained by the claiming authority for law
23 enforcement purposes, unless the court determines that such property is

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 subject to a perfected lien. If not so retained, the judgment or order
2 shall direct the claiming authority to sell the property in accordance
3 with article fifty-one of this chapter, and that the proceeds of such
4 sale and any other moneys realized as a consequence of any forfeiture
5 pursuant to this article shall be apportioned and paid in the following
6 descending order of priority:

7 § 2. This act shall take effect immediately.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A2153

SPONSOR: Lafayette (MS)

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to authorizing a claiming authority to retain electronic equipment for law enforcement purposes

PURPOSE: This bill permits law enforcement officials to retain electronic and surveillance equipment that has been seized and forfeited, in order to utilize the equipment for law enforcement purposes.

SUMMARY: This bill amends § 1349 of the Civil Practice Law and Rules ("CPLR") to add electronic equipment or devices and surveillance equipment to items such as vehicles, vessels, and aircraft which may be retained by law enforcement entities after forfeiture and used for law enforcement purposes.

EXISTING LAW: This valuable equipment cannot now be used by law enforcement officials.

JUSTIFICATION: Under current law, any vehicle, vessel or aircraft seized and forfeited as crime proceeds may be retained by the seizing jurisdiction and used in law enforcement activities. This statutory authority enhances the ability of law enforcement officials to combat crime, while at the same time saving taxpayer dollars by avoiding the need to purchase these expensive items.

Law enforcement officials frequently seize electronic equipment such as computers, video equipment and fax machines and surveillance equipment, such as night vision goggles which are superior to the equipment used by police agencies, and which could be used to help combat crime or reduce auto theft. Unfortunately, under current law such electronic equipment cannot be forfeited. Instead equipment must be auctioned off in accordance with Article 51 of the CPLR. The auction process is slow and costly, and produces only a fraction of the value of the goods, even when the electronic equipment is in good condition.

LEGISLATIVE HISTORY: Similar to S.1967 of 2001, 2003-04 (A.8564/S.1225-A)

FISCAL IMPLICATIONS FOR STATE & LOCAL GOVERNMENTS: This bill would have a positive fiscal impact, because it would make electronic equipment available for use by law enforcement, thereby saving taxpayer dollars that otherwise would be used to purchase such equipment.

LOCAL FISCAL IMPLICATIONS: This measure would have a positive fiscal impact on local law enforcement agencies.

EFFECTIVE DATE: Immediate.
