

BILL TEXT:

STATE OF NEW YORK

2981

2005-2006 Regular Sessions

IN ASSEMBLY

January 31, 2005

Introduced by M. of A. TEDISCO, CASALE -- Multi-Sponsored by -- M. of A. BARRAGA, CROUCH, HOOKER -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to extending forfeiture provisions to crimes of obscenity

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

1 Section 1. Subdivision 5 of section 1310 of the civil practice law and
2 rules, as added by chapter 669 of the laws of 1984, is amended to read
3 as follows:

4 5. "Post-conviction forfeiture crime" means any misdemeanor or felony
5 defined in article two hundred thirty-five of the penal law or any felo-
6 ny defined in any other provision of the penal law or any other chapter
7 of the consolidated laws of the state.

8 § 2. Paragraph (a) of subdivision 1 of section 1311 of the civil prac-
9 tice law and rules, as added by chapter 669 of the laws of 1984, is
10 amended to read as follows:

11 (a) Actions relating to post-conviction forfeiture crimes. An action
12 relating to a post-conviction forfeiture crime must be grounded upon a
13 conviction of a misdemeanor or felony defined in subdivision five of
14 section one thousand three hundred ten of this article, or upon criminal
15 activity arising from a common scheme or plan of which such a conviction
16 is a part, or upon a count of an indictment or information alleging such
17 a misdemeanor or felony which was dismissed at the time of a plea of
18 guilty to a misdemeanor or felony in satisfaction of such count. A court
19 may not grant forfeiture until such conviction has occurred. However, an
20 action may be commenced, and a court may grant a provisional remedy
21 provided under this article, prior to such conviction having occurred.
22 An action under this paragraph must be dismissed at any time after sixty
23 days of the commencement of the action unless the conviction upon which
24 the action is grounded has occurred, or an indictment or information

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

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1 upon which the asserted conviction is to be based is pending in a supe-
2 rior court. An action under this paragraph shall be stayed during the
3 pendency of a criminal action which is related to it; provided, however,
4 that such stay shall not prevent the granting or continuance of any
5 provisional remedy provided under this article or any other provisions
6 of law.

7 § 3. This act shall take effect on the sixtieth day after it shall
8 have become a law.

SPONSORS MEMO:

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

BILL NUMBER: A2981

SPONSOR: Tedisco (MS)

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to extending forfeiture provisions to crimes of obscenity

PURPOSE OR GENERAL IDEA OF BILL:

Mandates that a "Post-conviction forfeiture crime" to be extended to include any misdemeanor or felony defined in article two hundred thirty-five of the penal law or any felony defined in any other provision of the penal law.

SUMMARY OF SPECIFIC PROVISIONS:

Subdivision 5 of section 1310 of the civil practice law and rules is amended to include any misdemeanor or felony defined in article two hundred thirty-five of the penal law.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

Amends Subdivision 5 of section 1310 of the civil practice law and rules to include misdemeanors and obscenity violations.

JUSTIFICATION:

Many counties in New York State find it difficult to reduce the proliferation of pornography and enforce the law when bookstores are closed down for a couple of days, the owners pay a fine, and then resume business as soon as the case is settled. This legislation would allow the counties of New York State to become more effective in closing down pornographic stores, and in reducing the private production and sale of pornographic material.

PRIOR LEGISLATIVE HISTORY:

2004: A.2431 Held for consideration in Codes
2003: A2431 referred to codes
2002: A.3072 Held for consideration in Codes
1998 held for consideration in codes
01/03/96 referred to codes
05/23/95 held for consideration in codes
02/16/95 referred to codes
1994: A3082 Referred to Codes
1993: A3082 Held for consideration in Codes
1992: A4751 Held for consideration in Codes

RETRIEVE BILL

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:

All governments will receive revenues from the forfeiture of property.

EFFECTIVE DATE:

The sixtieth day after it shall have become law.
