

(4) EVIDENCE THAT THE MOTOR VEHICLE WAS ACQUIRED BY USE OF PROCEEDS FROM A TRANSACTION INVOLVING A CONTROLLED DANGEROUS SUBSTANCE;

(5) CIRCUMSTANCES OF THE ARREST; AND

(6) THE WAY IN WHICH THE MOTOR VEHICLE WAS USED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 297(i)(1).

In subsection (b)(2) of this section, the former clause "[a]lthough the violator has not sold or attempted to sell controlled dangerous substances in violation of this subtitle" is deleted as unnecessary because it does not restrain the operation of this subsection.

In subsection (c) of this section, the reference to circumstances "to be considered in deciding whether seizure and forfeiture are justified" is added for clarity.

Also in subsection (c) of this section, the former reference to circumstances that may include "but are not limited to" factors is deleted as unnecessary because the word "include" is used by way of illustration and not by way of limitation. See Art. 1, § 30.

The Criminal Procedure Article Review Committee notes, for consideration by the General Assembly, that: (1) in subsection (b)(1) of this section, the sale of or the attempt to sell controlled dangerous substances is said to be a standard used in determining whether a motor vehicle should be seized, but the subsection fails to characterize the distribution of or attempt to distribute a controlled dangerous substance as a similar standard; and (2) in subsection (c)(2) and (3) of this section, the identity of "the violator" is unclear.

Defined terms: "Controlled Dangerous Substances law" § 12-101

"Forfeiting authority" § 12-101

"Proceeds" § 12-101

"Seizing authority" § 12-101

12-205. SAME — EXCEPTIONS.

A MOTOR VEHICLE USED IN VIOLATION OF THIS TITLE MAY NOT BE SEIZED AND FORFEITURE MAY NOT BE RECOMMENDED TO THE FORFEITING AUTHORITY IF:

(1) THE MOTOR VEHICLE FALLS WITHIN § 12-103(B) OF THIS TITLE;

(2) (I) AN INNOCENT REGISTERED OWNER LENDS THE MOTOR VEHICLE TO ANOTHER PERSON; AND

(II) THAT PERSON, OR SOMEONE INVITED INTO THE MOTOR VEHICLE BY THAT PERSON, BRINGS A CONTROLLED DANGEROUS SUBSTANCE OR PARAPHERNALIA INTO THE MOTOR VEHICLE WITHOUT THE REGISTERED OWNER'S KNOWLEDGE; OR