S T A T E O F N E W Y O R K

2463

2009-2010 Regular Sessions

I N A S S E M B L Y

January 16, 2009

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to authorizing the impoundment of motor vehicles operated by persons driving while ability impaired or while intoxicated

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1194 of the vehicle and traffic law is amended by adding a new subdivision 5 to read as follows:

5. IMPOUNDMENT OF MOTOR VEHICLE; CONDITIONS FOR RELEASE; FEES FOR TOWING AND STORAGE. (A) WHENEVER A PERSON IS ARRESTED FOR A VIOLATION OF SUBDIVISION ONE, TWO, TWO-A, THREE, FOUR OR FOUR-A OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, THE LAW ENFORCEMENT AGENCY OF THE ARRESTING POLICE OFFICER SHALL IMPOUND THE MOTOR VEHICLE THAT SUCH PERSON WAS OPERATING AT THE TIME OF SUCH VIOLATION.

(B) A MOTOR VEHICLE IMPOUNDED PURSUANT TO THIS SUBDIVISION SHALL BE IMPOUNDED UNTIL:

(1) WITH RESPECT TO THE RELEASE OF THE MOTOR VEHICLE TO THE PERSON CHARGED WITH THE VIOLATION AUTHORIZING SUCH IMPOUNDMENT, FOR A PERIOD OF NOT LESS THAN TWELVE HOURS AFTER THE TIME OF THE ARREST; OR

(2) (I) WITH RESPECT TO THE RELEASE OF THE MOTOR VEHICLE TO A PERSON OTHER THAN THE PERSON CHARGED WITH A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE:

(A) THE MOTOR VEHICLE IS OWNED OR LEASED BY SUCH PERSON,

(B) THE MOTOR VEHICLE IS OWNED OR LEASED BY THE PERSON CHARGED WITH A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, AND SUCH PERSON IS EIGHTEEN YEARS OF AGE OR OLDER OR EMANCIPATED, AND GRANTS WRITTEN PERMISSION, IN A FORM AND MANNER ESTABLISHED BY THE COMMISSIONER, TO THE PERSON, TO WHOM THE VEHICLE IS TO BE RELEASED, TO OPERATE SUCH VEHICLE, OR

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

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(C) THE MOTOR VEHICLE IS OWNED OR LEASED BY THE PERSON CHARGED WITH A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE AND SUCH PERSON IS UNDER THE AGE OF EIGHTEEN AND UNEMANCIPATED, SUCH VEHICLE MAY BE RELEASED TO THE PARENT OR LEGAL GUARDIAN OF SUCH PERSON, AND

(II) THE MOTOR VEHICLE IMPOUNDED PURSUANT TO THIS SUBDIVISION SHALL NOT BE RELEASED TO A PERSON OTHER THAN THE PERSON WHO WAS ARRESTED FOR OPERATING THE VEHICLE IN VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, UNLESS THE PERSON CLAIMING SUCH VEHICLE:

(A) PRESENTS A VALID DRIVER'S LICENSE, PROOF OF OWNERSHIP OR LAWFUL AUTHORITY TO OPERATE THE MOTOR VEHICLE, AND PROOF OF VALID MOTOR VEHICLE INSURANCE FOR SUCH VEHICLE,

(B) IS ABLE TO OPERATE SUCH VEHICLE IN A SAFE MANNER AND THAT WOULD NOT BE IN VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THIS ARTICLE, AND

(C) MEETS ANY OTHER REASONABLE CONDITIONS FOR RELEASE ESTABLISHED BY THE LAW ENFORCEMENT AGENCY.

(C) A LAW ENFORCEMENT AGENCY IMPOUNDING A VEHICLE PURSUANT TO THIS SUBDIVISION, OR ANY DULY AUTHORIZED AGENT ACTING ON BEHALF OR UPON REQUEST OF SUCH LAW ENFORCEMENT AGENCY, IS AUTHORIZED TO CHARGE A REASONABLE FEE FOR THE TOWING AND STORAGE OF THE IMPOUNDED MOTOR VEHICLE. THE LAW ENFORCEMENT AGENCY OR SUCH DULY AUTHORIZED AGENT IS AUTHORIZED TO RETAIN CUSTODY OF SUCH VEHICLE UNTIL THE FEE IS PAID.

(D) NO PROVISION OF THIS SUBDIVISION SHALL BE DEEMED TO PREVENT OR SUPERSEDE A COURT OF COMPETENT JURISDICTION FROM EXERCISING ITS AUTHORITY RELATING TO THE RELEASE OF A MOTOR VEHICLE IMPOUNDED PURSUANT TO THIS SUBDIVISION.

(E) NO PROVISION OF THIS SUBDIVISION SHALL BE DEEMED TO PREVENT A LAW ENFORCEMENT AGENCY FROM EXERCISING ITS DISCRETION PURSUANT TO SECTION 140.20 OF THE CRIMINAL PROCEDURE LAW WITH RESPECT TO ARRESTED PERSONS WHO MAY REPRESENT A DANGER TO THEMSELVES OR OTHERS.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.