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2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sens. PAVAN, O. JOHNSON, MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to the disposal of allegedly stolen motor vehicles

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

1 Section 1. Subdivision 1 and paragraph (a) of subdivision 4 of section
2 450.10 of the penal law, subdivision 1 as added by chapter 795 of the
3 laws of 1984 and paragraph (a) of subdivision 4 as amended by chapter
4 421 of the laws of 1992, are amended to read as follows:
5 1. When property, other than *STOLEN MOTOR VEHICLES OR* contraband
6 including but not limited to those items subject to the provisions of
7 sections 410.00, 415.00, 420.00 and 420.05 of this chapter, alleged to
8 have been stolen is in the custody of a police officer, a peace officer
9 or a district attorney and a request for its release is made prior to or
10 during the criminal proceeding, it may not be released except as
11 provided in subdivisions two, three and four of this section. When a
12 request is made for the return of stolen property under this section,
13 the police officer, peace officer or district attorney in possession of
14 such property must provide written notice to the defendant or his coun-
15 sel of such request as soon as practicable. Such notice shall advise the
16 defendant or his counsel of the date on which the property will be
17 released and the name and address of a person with whom arrangements can
18 be made for the examination, testing, photographing, photocopying or
19 other reproduction of said property.
20 (a) Except as provided in [paragraphs (b) and] PARAGRAPH (c) of this
21 subdivision and in subdivision eleven of this section, when a request is
22 made for the release of property described in subdivision one of this
23 section, and the property shall consist of perishables, fungible retail
24 items, motor vehicles or any other property release of which is neces-

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

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1 sary for either the operation of a business or the health or welfare of
2 any person, the property shall be retained until either the expiration
3 of a forty-eight hour period from the receipt by the defendant's counsel
4 of the notice of the request, or the examination, testing and photocopy-
5 ing, photographing or other reproduction of such property, by the
6 parties whichever event occurs first. The forty-eight hour period may be
7 extended by up to twenty-four additional hours by agreement between the
8 parties. For the purposes of this section, perishables shall mean any
9 property likely to spoil or decay or diminish significantly in value
10 within twenty days of the initial retention of the property.

11 S 2. This act shall take effect on the first of November next succeed-
12 ing the date on which it shall have become a law.