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

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I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. LUPARDO, CANESTRARI, DelMONTE, SCHROEDER, ESPAILLAT, MAGEE, CARROZZA, HAWLEY -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, COOK, CROUCH, DESTITO, JOHN, LATIMER, V. LOPEZ, MARKEY, McENENY, MILLER, PHEFFER, PRETLOW, SWEENEY, TITUS, WEISENBERG -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the transfer of motorcycles having parts with unidentifiable identification numbers

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

Section 1. Subdivision 2 of section 423-a of the vehicle and traffic law, as added by chapter 976 of the laws of 1981, is amended to read as follows:

2. Assignment of a new identification number AND RETURN OF MOTOR VEHICLE, TRAILER OR PART TO OWNER. If a person other than the person arrested be the owner, the motor vehicle, trailer or part shall be returned to him OR HER as soon as he OR SHE has arranged to have the department of motor vehicles affix a new number, or in the case of a part, inspect such part, and the department has done so, as provided in section four hundred twenty-two of this [chapter] ARTICLE. Prior to the return of the motor vehicle, trailer or part, or the transfer of custody of said motor vehicle, trailer or part, the arresting officer shall transmit notice of the arrest to the commissioner.

S 2. Subdivision 3 of section 423-a of the vehicle and traffic law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, OWNERSHIP OF AN UNIDENTIFIABLE PART IN AN OTHERWISE IDENTIFIABLE MOTORCYCLE, OTHER THAN A STOLEN MOTORCYCLE, HELD BY THE DEPARTMENT OR BY A POLICE DEPARTMENT SHALL BE TRANSFERRED TO THE OWNER OF SUCH MOTORCYCLE UPON HIS OR HER REQUEST, PROVIDED THAT THE DEPARTMENT OR POLICE DEPARTMENT MAKES AN INVESTIGATION AND, IF APPROPRIATE, HOLDS A HEARING AND FINDS THAT SUCH OWNER HAD NO KNOWLEDGE THAT THE PART WAS UNIDENTIFIABLE AND THAT SUCH

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

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OWNER WAS NEITHER RESPONSIBLE FOR RENDERING SUCH PART UNIDENTIFIABLE NOR ACTING IN CONCERT WITH ANY PERSON WHO RENDERED OR HAD SUCH PART RENDERED UNIDENTIFIABLE. SUCH TRANSFER SHALL BE MADE WITHOUT ANY PAYMENT BEING MADE TO THE DEPARTMENT OR POLICE DEPARTMENT PROVIDED THAT THE DEPARTMENT'S OR POLICE DEPARTMENT'S INVESTIGATION RESULTS IN A FINDING THAT THE PERSON HAS BEEN THE OWNER OF THE MOTORCYCLE WITH THE UNIDENTIFIABLE PART CONTAINED THEREIN FOR A PERIOD OF AT LEAST EIGHTEEN MONTHS. SUCH INVESTIGATION SHALL BE MADE BY THE DEPARTMENT OR THE POLICE DEPARTMENT WITHIN THIRTY DAYS OF THE REQUEST OF SUCH OWNER FOR THE RETURN OF SUCH UNIDENTIFIABLE PART. IF THE OWNER OF SUCH MOTORCYCLE CANNOT BE ASCERTAINED, OR IF THE OWNER OR CUSTODIAN IS ARRESTED AND CONVICTED OF THE THEFT OR UNLAWFUL POSSESSION OF SUCH MOTORCYCLE, SUCH A TRANSFER MAY BE MADE TO A PERSON ENGAGED IN THE BUSINESS OF BUYING OR SELLING MOTOR VEHICLES, TRAILERS OR PARTS WHO IS SUBJECT TO THE PRESUMPTION IN SUBDIVISION ONE OF SECTION FOUR HUNDRED TWENTY-ONE OF THIS ARTICLE, ONLY UPON PAYMENT TO THE DEPARTMENT OR TO THE POLICE DEPARTMENT OF AN AMOUNT EQUAL TO THE REASONABLE WHOLESALE VALUE OF THE PART. PROCEEDS FROM THE TRANSFER OF ANY SUCH PART SHALL BE PAID INTO THE GENERAL FUND OF THE STATE IF TRANSFERRED BY THE DEPARTMENT OR THE DIVISION OF STATE POLICE, OR INTO THE GENERAL FUND OF THE APPROPRIATE LOCAL AUTHORITY, IF TRANSFERRED BY A LOCAL POLICE DEPARTMENT. NO SUCH PART SHALL BE TRANSFERRED PURSUANT TO THIS PARAGRAPH UNTIL A SPECIAL IDENTIFICATION NUMBER HAS BEEN AFFIXED TO SUCH PART AND THE APPROPRIATE FEE HAS BEEN PAID BY THE OWNER OF THE MOTORCYCLE.

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.