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

2461

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 the impoundment of vehicles operated by intoxicated and or impaired persons

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 VEHICLE OPERATED BY ARRESTEE; CONDITIONS OF RELEASE; FEE FOR TOWING STORAGE. (A) WHENEVER A PERSON HAS BEEN 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 SHALL IMPOUND THE VEHICLE THAT THE ARRESTEE WAS OPERATING AT THE TIME OF THE ARREST.

(B) A VEHICLE IMPOUNDMENT PURSUANT TO THIS SUBDIVISION SHALL BE IMPOUNDED UNTIL THE FOLLOWING CONDITIONS FOR THE RELEASE OF SUCH VEHICLE ARE MET:

(1) WITH RESPECT TO THE RELEASE OF THE VEHICLE TO THE ARRESTEE, FOR A PERIOD OF NOT LESS THAN TWELVE HOURS FROM THE TIME OF THE ARREST;

(2) WITH RESPECT TO THE RELEASE OF THE VEHICLE TO A PERSON OTHER THAN THE ARRESTEE, WHERE SUCH VEHICLE IS OWNED OR LEASED BY:

(A) THAT PERSON AND THAT PERSON MEETS THE CONDITIONS SET FORTH IN SUBPARAGRAPH THREE OF THIS PARAGRAPH; OR

(B) THE ARRESTEE, AND THE ARRESTEE IS AT LEAST EIGHTEEN YEARS OLD OR EMANCIPATED, AND THE ARRESTEE GIVES WRITTEN PERMISSION IN A FORM AND MANNER ESTABLISHED BY THE COMMISSIONER, TO ANOTHER PERSON TO OPERATE SUCH VEHICLE, AND SUCH PERSON MEETS THE CONDITIONS FOR RELEASE AS SET FORTH IN SUBPARAGRAPH THREE OF THIS PARAGRAPH; OR

(C) THE ARRESTEE, AND THE ARRESTEE IS UNDER THE AGE OF EIGHTEEN AND UNEMANCIPATED, THE VEHICLE MAY BE RELEASED TO THE PARENT OR LEGAL GUARD-

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

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IAN OF THE ARRESTEE AND SUCH PERSON MEETS THE CONDITIONS FOR RELEASE SET FORTH IN SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(3) A VEHICLE IMPOUNDED PURSUANT TO THIS SUBDIVISION SHALL NOT BE RELEASED UNLESS THE PERSON CLAIMING THE VEHICLE:

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

(B) WOULD NOT BE IN VIOLATION OF SUBDIVISION ONE, TWO, TWO-A, THREE, FOUR, FOUR-A, FIVE OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OR SECTION ELEVEN HUNDRED NINETY-TWO-A OF THIS ARTICLE IN CONNECTION WITH THE OPERATION OF SUCH VEHICLE AND IS OTHERWISE ABLE TO OPERATE THE VEHICLE IN A SAFE MANNER; AND

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

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

(D) NOTHING CONTAINED IN THIS SUBDIVISION SHALL PREVENT OR SUPERSEDE A COURT OF COMPETENT JURISDICTION FROM EXERCISING ITS AUTHORITY IN CONNECTION WITH THE RELEASE OF A VEHICLE IMPOUNDED PURSUANT TO THIS SUBDIVISION.

(E) NOTHING IN 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 THE RELEASE OF 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.