

2707

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sens. ADAMS, MONSERRATE, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to requiring notice prior to and after the repossession or retaking of a motor vehicle or motorcycle, opportunity to cure default, and notice of sale

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

1 Section 1. Subdivision 1 of section 425 of the vehicle and traffic
2 law, as amended by chapter 81 of the laws of 1968, is amended to read as
3 follows:
4 1. Any person, firm or corporation, or agent, employee or represen-
5 tative thereof, repossessing or retaking a motor vehicle or motorcycle
6 pursuant to the provisions of article nine of the uniform commercial
7 code, or other authority of law, or any contract or agreement, shall[,]:
8 (A) immediately following such repossession or retaking, personally
9 appear at a station house or other office of the police department, or
10 agency or officer performing like functions, in the locality wherein
11 such repossession or retaking occurred, give notice to such department,
12 agency or officer of such repossession or retaking and thereafter and
13 within twenty-four hours personally deliver or mail by special delivery
14 first class mail to the nearest motor vehicle district office, [(a)] (1)
15 notice of such repossession or retaking in such form as the commissioner
16 may require and [(b)] (2) the number plates of such motor vehicle or
17 motorcycle. Notice of such repossession or retaking, including the name
18 and address of the person, firm or corporation repossessing or retaking
19 the same, shall also be given within twenty-four hours thereof to the
20 owner of such motor vehicle or motorcycle, either personally or by
21 registered or certified mail directed to such owner at his OR HER last-
22 known address. Unless the motor vehicle or motorcycle can be repossessed
23 or retaken without breach of the peace, it shall be repossessed or

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

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1 retaken by legal process, but nothing herein contained shall be
2 construed to authorize a violation of the criminal law.

3 (B) WITHIN FIVE DAYS AFTER HE OR SHE REPOSSESSES THE GOODS, THE
4 PERSON, FIRM OR CORPORATION, OR AGENT, EMPLOYEE OR REPRESENTATIVE THERE-
5 OF, SHALL DELIVER TO THE OWNER PERSONALLY OR SEND TO HIM OR HER AT HIS
6 OR HER LAST KNOWN ADDRESS BY REGISTERED OR CERTIFIED MAIL, A WRITTEN
7 NOTICE WHICH BRIEFLY STATES:

8 (1) THE RIGHT OF THE OWNER TO REDEEM THE MOTOR VEHICLE OR MOTORCYCLE,
9 AND THE AMOUNT PAYABLE FOR IT;

10 (2) THE RIGHTS OF THE OWNER AS TO A RESALE, AND HIS OR HER LIABILITY
11 FOR A DEFICIENCY; AND

12 (3) THE EXACT LOCATION WHERE THE MOTOR VEHICLE OR MOTORCYCLE IS STORED
13 AND THE ADDRESS WHERE ANY PAYMENT IS TO BE MADE OR NOTICE DELIVERED.

14 (C) FOR FIFTEEN DAYS AFTER THE PERSON, FIRM OR CORPORATION, OR AGENT,
15 EMPLOYEE OR REPRESENTATIVE THEREOF, GIVES THE NOTICE REQUIRED BY PARA-
16 GRAPH (B) OF THIS SUBDIVISION, THE PERSON, FIRM OR CORPORATION, OR
17 AGENT, EMPLOYEE OR REPRESENTATIVE THEREOF, SHALL RETAIN ANY REPOSSESSED
18 MOTOR VEHICLE OR MOTORCYCLE.

19 (D) DURING THE PERIOD PROVIDED FOR IN PARAGRAPH (C) OF THIS SUBDIVI-
20 SION, THE OWNER MAY:

21 (1) REDEEM AND TAKE POSSESSION OF THE MOTOR VEHICLE OR MOTORCYCLE; AND

22 (2) RESUME THE PERFORMANCE OF THE UNDERLYING AGREEMENT.

23 (E) TO REDEEM THE GOODS, THE OWNER SHALL:

24 (1) TENDER THE AMOUNT DUE UNDER THE UNDERLYING AGREEMENT AT THE TIME
25 OF REDEMPTION, WITHOUT GIVING EFFECT TO ANY PROVISION WHICH ALLOWS
26 ACCELERATION OF ANY INSTALLMENT OTHERWISE PAYABLE AFTER THAT TIME;

27 (2) TENDER PERFORMANCE OF ANY OTHER PROMISE FOR THE BREACH OF WHICH
28 THE MOTOR VEHICLE OR MOTORCYCLE WAS REPOSSESSED; AND

29 (3) IF THE NOTICE PROVIDED FOR IN PARAGRAPH (B) OF THIS SUBDIVISION
30 WAS GIVEN, PAY THE ACTUAL AND REASONABLE EXPENSES OF RETAKING AND STOR-
31 ING THE MOTOR VEHICLE OR MOTORCYCLE.

32 (F) THE PERSON, FIRM OR CORPORATION, OR AGENT, EMPLOYEE OR REPRESEN-
33 TATIVE THEREOF, SHALL SELL THE REPOSSESSED MOTOR VEHICLE OR MOTORCYCLE
34 AT PRIVATE SALE OR AT PUBLIC AUCTION. AT LEAST TEN DAYS BEFORE THE SALE,
35 THE PERSON, FIRM OR CORPORATION, OR AGENT, EMPLOYEE OR REPRESENTATIVE
36 THEREOF, SHALL NOTIFY THE OWNER IN WRITING SENT BY CERTIFIED MAIL,
37 RETURN RECEIPT REQUESTED, SENT TO THE OWNER'S LAST KNOWN ADDRESS OF THE
38 TIME AND PLACE OF SALE. ANY SALE OF A REPOSSESSED MOTOR VEHICLE OR
39 MOTORCYCLE MUST BE ACCOMPLISHED IN A COMMERCIALY REASONABLE MANNER.

40 S 2. This act shall take effect on the first of January next succeed-
41 ing the date on which it shall have become a law.