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I N A S S E M B L Y

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Introduced by M. of A. LUPARDO, TITONE, MAGEE, JAFFEE, BRONSON, SAYWARD, P. LOPEZ, TENNEY, STEVENSON, ROBERTS, GABRYSZAK -- Multi-Sponsored by -- M. of A. BRENNAN, COOK, LATIMER, V. LOPEZ, LOSQUADRO, MARKEY, MCENENY, D. MILLER, PRETLOW, SWEENEY, TITUS, WEISENBERG -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

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:

1 Section 1. Section 423-a of the vehicle and traffic law, as added by
2 chapter 976 of the laws of 1981, paragraph (b) of subdivision 1 and
3 subdivisions 3 and 4 as amended by chapter 726 of the laws of 1983 and
4 subdivision 5 as added by chapter 606 of the laws of 1989, is amended to
5 read as follows:
6 S 423-a. Enforcement procedures for insuring the retention of vehicle
7 identification numbers on vehicles. 1. Seizure of vehicle. (a) Members
8 of the state police, any local police department or any peace officer
9 acting pursuant to his special duties shall seize and confiscate a motor
10 vehicle or trailer if any original identification number or special
11 identification number is destroyed, removed, altered, defaced or so
12 covered as to be effectually concealed.
13 (b) The commissioner shall establish standards for determining whether
14 an identification number on a motor vehicle, trailer or part thereof is
15 destroyed, removed, altered, defaced or so covered as to be effectually
16 concealed. Whenever a vehicle described in paragraph (a) of this subdivi-
17 sion is seized or confiscated, members of the state police, local
18 police department or peace officers acting pursuant to their special

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

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1 duties, if warranted, shall arrest the supposed owner or custodian thereof, and cause prosecution to be brought in a court of competent jurisdiction. It shall be the duty of the appropriate agency or the department of motor vehicles to retain the custody of each motor vehicle, trailer or part seized pending the prosecution of the person arrested until the ownership of such motor vehicle, trailer or part shall have been ascertained. If [the ownership of such motor vehicle, trailer or part cannot be ascertained, or if] the owner or custodian is convicted of the theft or unlawful possession of said motor vehicle, trailer or part, such motor vehicle, trailer or part, if in the possession of the state police or any other state agency shall, at the direction of the office of general services, be held for, or delivered into the possession of, such office, and title shall vest in such office, or if in the possession of a local police department or other local authority, such motor vehicle or trailer shall be treated as an abandoned vehicle pursuant to section twelve hundred twenty-four of this chapter, or such part may be sold by the local authority to a registered dealer or to a registered vehicle dismantler or certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter. IF OWNERSHIP OF SUCH MOTOR VEHICLE, TRAILER OR PART CANNOT BE ASCERTAINED, SUCH MOTOR VEHICLE, TRAILER OR PART, SHALL BE RETURNED TO THE OWNER FROM WHICH SUCH VEHICLE, TRAILER OR PART WAS SEIZED.

23 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. 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.

33 3. Disposition of certain motor vehicles, trailers and parts. (a) If the owner of a motor vehicle or trailer cannot be ascertained, or if the owner or custodian is arrested and convicted of the theft or unlawful possession of said motor vehicle or trailer, and such motor vehicle or trailer is held for or is in the possession of the office of general services, the office of general services shall sell the motor vehicle or trailer at public auction or by bid, or, it may be registered for use by the office or by a state agency in the performance of the duties of the office or of such state agency, provided that the department of motor vehicles first affixes a special identification number to the motor vehicle or trailer, if required. The special identification number shall thereafter be used for identification, registration and all purposes of this chapter, and the purchaser thereof may sell and transfer the motor vehicle or trailer bearing such a special identification number or numbers.

48 (b) If [the owner of a part or parts of a motor vehicle or trailer cannot be ascertained, or if] the owner or custodian is arrested and convicted of the theft or unlawful possession thereof, and such part is held for or is in the possession of the office of general services, the office of general services shall sell such part or parts to a registered dealer or to a registered vehicle dismantler or a certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter.

1 (c) Notwithstanding any other provision of this section, ownership of
2 an unidentifiable part in an otherwise identifiable vehicle, other than
3 a stolen vehicle, held by the department or by a police department may
4 be transferred to the owner of such vehicle provided that the department
5 or police department has made findings that such owner had no knowledge
6 that the part was unidentifiable and that such owner was neither respon-
7 sible for rendering such part unidentifiable nor acting in concert with
8 any person who rendered or had such part rendered unidentifiable AT NO
9 COST TO THE OWNER. Such a transfer may be made to a person who is
10 presumed to have determined and to know identification numbers on motor
11 vehicles and parts pursuant to subdivision one of section four hundred
12 twenty-one of this article only upon payment to the department or to the
13 police department of an amount equal to the reasonable wholesale value
14 of the part. Such a transfer may be made to any other person without any
15 payment being made to the department or police department provided that
16 the department or police department is satisfied that the person has
17 been the owner of the vehicle with the unidentifiable part contained
18 therein for a period of at least eighteen months. Such findings may
19 only be made after an investigation and, if appropriate, a hearing. Such
20 investigation shall be made promptly by the department or the police
21 department upon the request of such owner. Proceeds from the transfer of
22 any such part shall be paid into the general fund of the state if trans-
23 ferred by the department or the division of state police, or into the
24 general fund of the appropriate local authority, if transferred by a
25 local police department. No such part shall be so transferred until a
26 special identification number has been affixed to such part and the
27 appropriate fee has been paid by the owner of the vehicle. SUCH INVESTI-
28 GATION SHALL BE COMPLETED WITHIN THIRTY DAYS FROM THE DATE OF CONFIS-
29 CATION. AFTER THIRTY DAYS, IF THE DEPARTMENT OR THE POLICE DEPARTMENT
30 CANNOT PROVIDE EVIDENCE THAT THE SEIZED VEHICLE, TRAILER OR PART IS
31 STOLEN, SUCH VEHICLE, TRAILER OR PART SHALL BE RETURNED IN THE CONDITION
32 SUCH VEHICLE, TRAILER OR PART WERE IN PRIOR TO SUCH CONFISCATION, AT NO
33 COST TO THE OWNER.

34 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, OWNERSHIP OF
35 AN UNIDENTIFIABLE PART IN AN OTHERWISE IDENTIFIABLE MOTORCYCLE, OTHER
36 THAN A STOLEN MOTORCYCLE, HELD BY THE DEPARTMENT OR BY A POLICE DEPART-
37 MENT SHALL BE TRANSFERRED TO THE OWNER OF SUCH MOTORCYCLE UPON HIS OR
38 HER REQUEST, PROVIDED THAT THE DEPARTMENT OR POLICE DEPARTMENT MAKES AN
39 INVESTIGATION AND, IF APPROPRIATE, HOLDS A HEARING AND FINDS THAT SUCH
40 OWNER HAD NO KNOWLEDGE THAT THE PART WAS UNIDENTIFIABLE AND THAT SUCH
41 OWNER WAS NEITHER RESPONSIBLE FOR RENDERING SUCH PART UNIDENTIFIABLE NOR
42 ACTING IN CONCERT WITH ANY PERSON WHO RENDERED OR HAD SUCH PART RENDERED
43 UNIDENTIFIABLE. SUCH TRANSFER SHALL BE MADE WITHOUT ANY PAYMENT BEING
44 MADE TO THE DEPARTMENT OR POLICE DEPARTMENT PROVIDED THAT THE DEPART-
45 MENT'S OR POLICE DEPARTMENT'S INVESTIGATION RESULTS IN A FINDING THAT
46 THE PERSON HAS BEEN THE OWNER OF THE MOTORCYCLE WITH THE UNIDENTIFIABLE
47 PART CONTAINED THEREIN FOR A PERIOD OF AT LEAST EIGHTEEN MONTHS. SUCH
48 INVESTIGATION SHALL BE MADE BY THE DEPARTMENT OR THE POLICE DEPARTMENT
49 WITHIN THIRTY DAYS OF THE REQUEST OF SUCH OWNER FOR THE RETURN OF SUCH
50 UNIDENTIFIABLE PART. IF THE OWNER OF SUCH MOTORCYCLE CANNOT BE ASCER-
51 TAINED, OR IF THE OWNER OR CUSTODIAN IS ARRESTED AND CONVICTED OF THE
52 THEFT OR UNLAWFUL POSSESSION OF SUCH MOTORCYCLE, SUCH A TRANSFER MAY BE
53 MADE TO A PERSON ENGAGED IN THE BUSINESS OF BUYING OR SELLING MOTOR
54 VEHICLES, TRAILERS OR PARTS WHO IS SUBJECT TO THE PRESUMPTION IN SUBDI-
55 VISION ONE OF SECTION FOUR HUNDRED TWENTY-ONE OF THIS ARTICLE, ONLY UPON
56 PAYMENT TO THE DEPARTMENT OR TO THE POLICE DEPARTMENT OF AN AMOUNT EQUAL

1 TO THE REASONABLE WHOLESALE VALUE OF THE PART. PROCEEDS FROM THE TRANS-
2 FER OF ANY SUCH PART SHALL BE PAID INTO THE GENERAL FUND OF THE STATE IF
3 TRANSFERRED BY THE DEPARTMENT OR THE DIVISION OF STATE POLICE, OR INTO
4 THE GENERAL FUND OF THE APPROPRIATE LOCAL AUTHORITY, IF TRANSFERRED BY A
5 LOCAL POLICE DEPARTMENT. NO SUCH PART SHALL BE TRANSFERRED PURSUANT TO
6 THIS PARAGRAPH UNTIL A SPECIAL IDENTIFICATION NUMBER HAS BEEN AFFIXED TO
7 SUCH PART AND THE APPROPRIATE FEE HAS BEEN PAID BY THE OWNER OF THE
8 MOTORCYCLE.

9 4. Whenever a vehicle or part which is in the possession of the state
10 police or any other state agency or a local police agency or other local
11 authority is returned to an owner, the cost of making delivery of the
12 vehicle or part shall be a charge upon such [owner] DEPARTMENT OR POLICE
13 DEPARTMENT. With respect to motor vehicles, trailers and parts held by
14 the state police or any other state agency, the commissioner of the
15 office of general services, after consultation with the commissioner of
16 motor vehicles, shall promulgate regulations to effectuate the
17 provisions of this section. Such regulations may include, but shall not
18 be limited to, provisions for the removal of parts from vehicles, the
19 storage and sale of vehicles and parts and the recovery of costs
20 incurred in performing the duties required herein.

21 5. Notwithstanding any other provision of law, if the commissioner is
22 holding a vehicle or vehicle part, upon determination of the rightful
23 owner of the vehicle or vehicle part, the commissioner shall give writ-
24 ten notice to the owner to retrieve such vehicle or vehicle part.
25 Fifteen days after the receipt of such notice by certified mail, the
26 commissioner shall impose a storage charge of ten dollars a day for a
27 vehicle and five dollars a day for a vehicle part or parts. Unpaid stor-
28 age charges shall be a lien upon the vehicle or vehicle part and such
29 lien may be foreclosed in accordance with article nine of the lien law.
30 Any moneys collected as storage charges or as the result of foreclosure
31 of liens for storage shall be used to fund the motor vehicle theft
32 prevention program established by section two hundred twenty-three of
33 this chapter.

34 S 2. The commissioner of motor vehicles shall establish a public
35 education program to disseminate information regarding the implementa-
36 tion of this act.

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