

7829

I N S E N A T E

May 12, 2016

Introduced by Sen. KLEIN -- 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 authorizing the seizure and impoundment of all terrain vehicles and off-highway motorcycles operated in violation of the provisions of such law in a city having a population of one million or more

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

1 Section 1. Paragraph (b) of subdivision 1 of section 424 of the vehi-
2 cle and traffic law, as added by chapter 114 of the laws of 1991, is
3 amended to read as follows:

4 (b) For the purposes of this subdivision the term "impound" shall be
5 deemed to include the taking into possession by an agency of any motor
6 vehicle, ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE which has been
7 abandoned, repossessed, seized pending forfeiture proceedings, taken
8 into custody or held as evidence in the course of a police investi-
9 gation, required to be impounded by law, or in any other way taken into
10 possession or held by an agency under circumstances in which the owner
11 may not reasonably have knowledge of the status of the vehicle. Nothing
12 contained herein shall preclude a police department, which has taken a
13 vehicle into custody under these or other circumstances, from entering a
14 vehicle into the New York statewide police information network as an
15 impounded vehicle to facilitate location of the vehicle by its owner.

16 S 2. Subdivision 2 of section 424 of the vehicle and traffic law, as
17 amended by chapter 114 of the laws of 1991, is amended to read as
18 follows:

19 2. (A) Any [policeman, state trooper] POLICE OFFICER or peace officer
20 acting pursuant to his OR HER special duties shall have the power to
21 seize any motor vehicle or trailer in the state when there is good
22 reason to believe that such motor vehicle or trailer has been stolen.
23 Unless the vehicle is subject to the provisions of section four hundred
24 twenty-three-a of this article, the appropriate agency shall contact the
25 owner of such motor vehicle or trailer, if known, and, after any stolen
26 vehicle alarm resulting from such theft has been cancelled, release the

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

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1 vehicle to such owner. If the owner thereof cannot be ascertained in
2 accordance with procedures established by regulations of the commission-
3 er, a local police agency shall dispose of such vehicle as an abandoned
4 vehicle pursuant to section twelve hundred twenty-four of this chapter,
5 and the DIVISION OF state police shall hold such vehicle for, or deliver
6 it to the office of general services.

7 (B) ANY POLICE OFFICER OR PEACE OFFICER ACTING PURSUANT TO HIS OR HER
8 SPECIAL DUTIES SHALL HAVE THE POWER TO SEIZE ANY ALL TERRAIN VEHICLE OR
9 OFF-HIGHWAY MOTORCYCLE WHEN SUCH VEHICLE OR MOTORCYCLE WAS OPERATED IN
10 VIOLATION OF TITLE SEVEN OR ELEVEN OF THIS CHAPTER IN A CITY HAVING A
11 POPULATION OF ONE MILLION OR MORE.

12 S 3. The vehicle and traffic law is amended by adding a new section
13 424-a to read as follows:

14 S 424-A. REDEMPTION AND RETURN OF CERTAIN ALL TERRAIN VEHICLES AND
15 OFF-HIGHWAY MOTORCYCLES. 1. UPON SEIZURE AND IMPOUNDMENT OF ANY ALL
16 TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE PURSUANT TO PARAGRAPH (B) OF
17 SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FOUR OF THIS ARTICLE, THE
18 POLICE DEPARTMENT SEIZING SUCH VEHICLE OR MOTORCYCLE SHALL NOTIFY THE
19 OWNER THEREOF, IF KNOWN, BY CERTIFIED MAIL, THAT HIS OR HER ALL TERRAIN
20 VEHICLE OR OFF-HIGHWAY MOTORCYCLE HAS BEEN SEIZED BY SUCH DEPARTMENT.
21 SUCH NOTIFICATION SHALL INCLUDE A BRIEF DESCRIPTION OF SUCH VEHICLE OR
22 MOTORCYCLE, ITS VEHICLE IDENTIFICATION NUMBER, THE OFFICE AND LOCATION
23 AT WHICH SUCH VEHICLE OR MOTORCYCLE MAY BE REDEEMED AND A STATEMENT OF
24 ALL CHARGES, FEES AND PENALTIES APPLICABLE TO THE IMPOUNDMENT THEREOF,
25 AND OF ALL FINES IMPOSED FOR THE ILLEGAL OPERATION THEREOF.

26 2. EXCEPT AS SPECIFICALLY OTHERWISE PROVIDED BY LAW, NO ALL TERRAIN
27 VEHICLE OR OFF-HIGHWAY MOTORCYCLE SEIZED AND IMPOUNDED, PURSUANT TO
28 PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FOUR OF
29 THIS ARTICLE, SHALL BE RELEASED BY THE ADMINISTRATIVE TRIBUNAL TO THE
30 POSSESSION OF THE OWNER THEREOF UNTIL SUCH OWNER HAS:

31 (A) SUBMITTED TO THE ADMINISTRATIVE TRIBUNAL SATISFACTORY PROOF OF
32 IDENTITY AND OWNERSHIP INCLUDING, BUT NOT LIMITED TO, THE APPROPRIATE
33 REGISTRATION FOR THE ALL TERRAIN VEHICLE ISSUED PURSUANT TO SECTION
34 TWENTY-TWO HUNDRED EIGHTY-FIVE OR THE OFF-HIGHWAY MOTORCYCLE ISSUED
35 PURSUANT TO ARTICLE FIFTEEN OF THIS TITLE;

36 (B) PAID THE PREVAILING PENALTIES TO THE ADMINISTRATIVE TRIBUNAL OF
37 THE CITY THAT IMPOUNDED THE ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCY-
38 CLE PURSUANT TO SECTION TWENTY-FOUR HUNDRED FOURTEEN OF THIS CHAPTER;
39 AND

40 (C) SUBMITTED PROOF TO THE ADMINISTRATIVE TRIBUNAL THAT THE CHARGES
41 FOR VIOLATION OF THE PROVISIONS OF THIS CHAPTER HAVE BEEN DISPOSED OF BY
42 THE ADMINISTRATIVE TRIBUNAL, AND THAT ALL FINES AND PENALTIES ARISING
43 THEREFROM HAVE BEEN PAID IN FULL BY EITHER THE OWNER OR OPERATOR, OR
44 THAT THE OWNER HAS POSTED A BOND OF SEVEN THOUSAND FIVE HUNDRED DOLLARS
45 WITH SUCH BOARD AS SECURITY FOR PAYMENT OF ALL FINES AND PENALTIES ARIS-
46 ING OUT OF SUCH VIOLATIONS.

47 3. THE ADMINISTRATIVE TRIBUNAL, IN ITS DISCRETION, MAY WAIVE THE
48 REQUIREMENTS OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION WHEN
49 THE OWNER OF THE IMPOUNDED ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE
50 IS A BUSINESS ENGAGED IN THE RENTAL OR LEASE OF SUCH VEHICLES, AND SUCH
51 OWNER DID NOT VIOLATE ANY PROVISION OF THIS CHAPTER WHICH WOULD NOT OR
52 DID NOT CAUSE THE SEIZURE OF THE ALL TERRAIN VEHICLE OR OFF-HIGHWAY
53 MOTORCYCLE.

54 4. UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF THIS
55 SECTION, THE ADMINISTRATIVE TRIBUNAL SHALL ISSUE, TO THE OWNER OF AN ALL
56 TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE, AN ORDER OF RELEASE AND

1 REDEMPTION WHICH SHALL BE ACCEPTED BY THE POLICE DEPARTMENT AND SUCH
2 DEPARTMENT SHALL SURRENDER SUCH VEHICLE OR MOTORCYCLE TO THE POSSESSION
3 OF ITS OWNER.

4 5. IN THE EVENT THAT THE CHARGES FOR VIOLATION OF THE PROVISIONS OF
5 THIS CHAPTER WHICH RESULTED IN THE IMPOUNDMENT OF THE ALL TERRAIN VEHI-
6 CLE OR OFF-HIGHWAY MOTORCYCLE ARE DISMISSED, THE OWNER THEREOF SHALL BE
7 ENTITLED TO A REFUND OF ANY AND ALL FEES PAID TO THE POLICE DEPARTMENT
8 AND THE ADMINISTRATIVE TRIBUNAL SHALL ISSUE AN ORDER PROVIDING FOR SUCH
9 REFUND.

10 6. ANY ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE WHICH IS RELEASED
11 FOR REDEMPTION BY THE ADMINISTRATIVE TRIBUNAL AND WHICH IS NOT REMOVED
12 BY ITS OWNER WITHIN TEN DAYS OF SUCH RELEASE SHALL BE DEEMED TO BE AN
13 ABANDONED VEHICLE WHICH MAY BE DISPOSED OF IN ACCORDANCE WITH SECTION
14 TWELVE HUNDRED TWENTY-FOUR OF THIS CHAPTER.

15 S 4. The vehicle and traffic law is amended by adding a new section
16 2414 to read as follows:

17 S 2414. SEIZURE AND PENALTIES; CITY HAVING A POPULATION OF ONE MILLION
18 OR MORE. 1. SEIZURE. IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS
19 CHAPTER, ANY ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE OPERATED IN
20 VIOLATION OF THE PROVISIONS OF THIS CHAPTER WITHIN A CITY HAVING A POPU-
21 LATION OF ONE MILLION OR MORE, SHALL BE SUBJECT TO SEIZURE AND IMPOUND-
22 MENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FOUR
23 HUNDRED TWENTY-FOUR AND SECTION FOUR HUNDRED TWENTY-FOUR-A OF THIS CHAP-
24 TER.

25 2. PENALTIES. IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS CHAP-
26 TER, THE OWNER OF ANY ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE
27 OPERATED IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER, WITHIN A CITY
28 HAVING A POPULATION OF ONE MILLION OR MORE, SHALL (A) FOR A FIRST
29 CONVICTION OF SUCH A VIOLATION, BE SUBJECT TO A FINE OF TWO HUNDRED
30 FIFTY DOLLARS AND IMPOUNDMENT OF THE ALL TERRAIN VEHICLE OR OFF-HIGHWAY
31 MOTORCYCLE FOR NOT MORE THAN ONE HUNDRED DAYS AT THE EXPENSE OF THE
32 OWNER THEREOF AT THE TIME OF THE CONVICTION; AND (B) FOR A SECOND OR
33 SUBSEQUENT VIOLATION, WITHIN TWENTY-FOUR MONTHS OF A PREVIOUS CONVICTION
34 OF THE OPERATION OF AN ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE IN
35 VIOLATION OF THIS CHAPTER OR ANY STATE OR LOCAL LAW, CODE OR ORDINANCE
36 RELATING TO ALL TERRAIN VEHICLES OR OFF-HIGHWAY MOTORCYCLES, BE SUBJECT
37 TO A FINE OF FIVE HUNDRED DOLLARS AND IMPOUNDMENT OF THE ALL TERRAIN
38 VEHICLE OR OFF-HIGHWAY MOTORCYCLE FOR A PERIOD OF SIX MONTHS, AT THE
39 EXPENSE OF THE OWNER THEREOF AT THE TIME OF THE CONVICTION.

40 S 5. This act shall take effect on the first of January next succeed-
41 ing the date on which it shall have become a law; provided, however,
42 that effective immediately, the addition, amendment and/or repeal of any
43 rule or regulation necessary for the implementation of this act on its
44 effective date are authorized and directed to be made and completed on
45 or before such effective date.