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

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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:

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

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

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

2. (A) Any [policeman, state trooper] POLICE OFFICER or peace officer acting pursuant to his OR HER special duties shall have the power to seize any motor vehicle or trailer in the state when there is good reason to believe that such motor vehicle or trailer has been stolen. Unless the vehicle is subject to the provisions of section four hundred twenty-three-a of this article, the appropriate agency shall contact the owner of such motor vehicle or trailer, if known, and, after any stolen 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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vehicle to such owner. If the owner thereof cannot be ascertained in accordance with procedures established by regulations of the commissioner, a local police agency shall dispose of such vehicle as an abandoned vehicle pursuant to section twelve hundred twenty-four of this chapter, and the DIVISION OF state police shall hold such vehicle for, or deliver it to the office of general services.

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

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

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

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

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

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

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

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

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

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

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

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

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

S 2414. SEIZURE AND PENALTIES; CITY HAVING A POPULATION OF ONE MILLION OR MORE. 1. SEIZURE. IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS CHAPTER, ANY ALL TERRAIN VEHICLE OR OFF-HIGHWAY MOTORCYCLE OPERATED IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER WITHIN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, SHALL BE SUBJECT TO SEIZURE AND IMPOUNDMENT PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FOUR AND SECTION FOUR HUNDRED TWENTY-FOUR-A OF THIS CHAPTER.

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

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