

# STATE OF NEW YORK

8566

## IN SENATE

May 10, 2018

Introduced by Sen. MAYER -- 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 the seizure and redemption of vehicles used in illegal races, exhibitions or contests of speed

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1182-c to read as follows:

3 § 1182-c. Seizure and redemption of vehicles used in illegal races,  
4 exhibitions or contests of speed. 1. Upon making an arrest or upon issu-  
5 ing a summons or an appearance ticket for a violation of section eleven  
6 hundred eighty-two of this article committed in his or her presence, an  
7 officer may remove or arrange for the removal of the vehicle to a  
8 garage, automobile pound, or other place of safety where it shall remain  
9 impounded, subject to the provisions of this section. Such vehicle shall  
10 be entered into the New York statewide police information network as an  
11 impounded vehicle and the impounding police department shall promptly  
12 notify the owner and the local authority that the vehicle has been  
13 impounded.

14 2. A motor vehicle so impounded shall be in the custody of the local  
15 authority and shall not be released unless:

16 (a) The person who redeems it has furnished satisfactory evidence of  
17 registration and financial security;

18 (b) Payment has been made for the reasonable costs of removal and  
19 storage of the motor vehicle. The registered owner of the vehicle shall  
20 be responsible for such payment provided, however, that if he or she was  
21 not the operator at the time of the offense he or she shall have a cause  
22 of action against such operator to recover such costs. Payment prior to  
23 release of the vehicle shall not be required in cases where the impound-  
24 ed vehicle was stolen or was rented or leased pursuant to a written  
25 agreement for a period of thirty days or less, however the operator of  
26 such a vehicle shall be liable for the costs of removal and storage of  
27 the vehicle to any entity rendering such service.

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

LBD13341-01-7

1 (c) Where the motor vehicle was operated by a person who at the time  
2 of the offense was the owner thereof, (i) satisfactory evidence that the  
3 registered owner or other person seeking to redeem the vehicle has a  
4 license or privilege to operate a motor vehicle in this state, and (ii)  
5 (A) satisfactory evidence that the criminal action founded upon the  
6 charge of a violation of section eleven hundred eighty-two of this arti-  
7 cle has been terminated and that any fine imposed as a result of a  
8 conviction thereon has been paid, or (B) a certificate issued by the  
9 court in which the criminal action was commenced ordering release of the  
10 vehicle prior to the judgment or compliance therewith in the interest of  
11 justice, or (C) a certificate issued by the district attorney or other  
12 officer authorized to prosecute such charge waiving the requirement that  
13 the vehicle be held as security for appearance before and compliance  
14 with the judgment of the court.

15 3. When a vehicle seized and impounded pursuant to this section has  
16 been in the custody of the local authority for thirty days, such author-  
17 ity shall make inquiry in the manner prescribed by the commissioner as  
18 to the name and address of the owner and any lienholder and upon receipt  
19 of such information shall notify the owner and the lienholder, if any,  
20 at his or her last known address by certified mail, return receipt  
21 requested, that if the vehicle is not retrieved pursuant to subdivision  
22 two of this section within thirty days from the date the notice is  
23 given, it will be forfeited. If the vehicle was registered in New York  
24 the last known address shall be that address on file with the commis-  
25 sioner. If the vehicle was registered out-of-state or never registered,  
26 notification shall be made in the manner prescribed by the commissioner.

27 4. A motor vehicle that has been seized and not retrieved pursuant to  
28 the foregoing provisions of this section shall be forfeited to the local  
29 authority upon expiration of the period of the notice set forth in  
30 subdivision three of this section provided, however, in computing such  
31 period, the period of time during which a criminal prosecution is or was  
32 pending against the owner for a violation of this section shall be  
33 excluded. A proceeding to decree such forfeiture and to recover towing  
34 and storage costs, if any, to the extent such costs exceed the fair  
35 market value of the vehicle may be brought by the local authority in the  
36 court in which the criminal action for aggravated unlicensed operation  
37 of a motor vehicle was commenced by petition for an order decreeing  
38 forfeiture of the motor vehicle accompanied by an affidavit attesting to  
39 facts showing that forfeiture is warranted. If the identity and address  
40 of the owner and/or lienholder is known to the local authority, ten days  
41 notice shall be given to such party, who shall have an opportunity to  
42 appear and be heard prior to entry of an order decreeing forfeiture.  
43 Where the court is satisfied that forfeiture of a motor vehicle is  
44 warranted in accordance with this section, it shall enter an order  
45 decreeing forfeiture of such vehicle. Provided, however, that the court  
46 at any time prior to entry of such an order may authorize release of the  
47 vehicle in accordance with subdivision two of this section upon a show-  
48 ing of good cause for failure to retrieve same prior to commencement of  
49 the proceeding to decree forfeiture, but if the court orders release of  
50 the motor vehicle as herein provided and the vehicle is not redeemed  
51 within ten days from the date of such order, the vehicle shall be deemed  
52 to have been abandoned and the court upon application of the local  
53 authority must enter an order decreeing its forfeiture.

54 5. A motor vehicle forfeited in accordance with the provisions of this  
55 section shall be and become the property of the local authority, subject  
56 however to any lien that was recorded prior to the seizure.

1 6. For the purposes of this section, the term "local authority" means  
2 the municipality in which the motor vehicle was seized; except that if  
3 the motor vehicle was seized on property of the New York state thruway  
4 authority or property under the jurisdiction of the office of parks,  
5 recreation and historic preservation, the department of transportation,  
6 or a public authority or commission, the term "local authority" means  
7 such authority, office, department, or commission. A county may provide  
8 by local law that the county may act as the agent for a local authority  
9 under this section.

10 7. When a vehicle has been seized and impounded pursuant to this  
11 section, the local authority or any person having custody of the vehicle  
12 shall make the vehicle available or grant access to it to any owner or  
13 any person designated or authorized by such owner for the purpose of (i)  
14 taking possession of any personal property found within the vehicle and  
15 (ii) obtaining proof of registration, financial security, title or  
16 documentation in support thereof.

17 § 2. This act shall take effect on the ninetieth day after it shall  
18 have become a law.