

STATE OF NEW YORK

6172

2017-2018 Regular Sessions

IN ASSEMBLY

February 27, 2017

Introduced by M. of A. PICHARDO, SEPULVEDA, DAVILA, GOTTFRIED, SEAWRIGHT, MOSLEY -- Multi-Sponsored by -- M. of A. ABBATE, GLICK, SIMON, WEINSTEIN -- read once and referred 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 vehicle and traffic law, as added by chapter 114 of the laws of 1991, is amended to read as follows:

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

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

17 2. (a) Any [~~policeman, state trooper~~] police officer or peace officer
18 acting pursuant to his or her special duties shall have the power to
19 seize any motor vehicle or trailer in the state when there is good
20
21

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

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1 reason to believe that such motor vehicle or trailer has been stolen.
2 Unless the vehicle is subject to the provisions of section four hundred
3 twenty-three-a of this article, the appropriate agency shall contact the
4 owner of such motor vehicle or trailer, if known, and, after any stolen
5 vehicle alarm resulting from such theft has been cancelled, release the
6 vehicle to such owner. If the owner thereof cannot be ascertained in
7 accordance with procedures established by regulations of the commission-
8 er, a local police agency shall dispose of such vehicle as an abandoned
9 vehicle pursuant to section twelve hundred twenty-four of this chapter,
10 and the division of state police shall hold such vehicle for, or deliver
11 it to the office of general services.

12 (b) Any police officer or peace officer acting pursuant to his or her
13 special duties shall have the power to seize any all terrain vehicle or
14 off-highway motorcycle when such vehicle or motorcycle was operated in
15 violation of title seven or eleven of this chapter in a city having a
16 population of one million or more.

17 § 3. The vehicle and traffic law is amended by adding a new section
18 424-a to read as follows:

19 § 424-a. Redemption and return of certain all terrain vehicles and
20 off-highway motorcycles. 1. Upon seizure and impoundment of any all
21 terrain vehicle or off-highway motorcycle pursuant to paragraph (b) of
22 subdivision two of section four hundred twenty-four of this article, the
23 police department seizing such vehicle or motorcycle shall notify the
24 owner thereof, if known, by certified mail, that his or her all terrain
25 vehicle or off-highway motorcycle has been seized by such department.
26 Such notification shall include a brief description of such vehicle or
27 motorcycle, its vehicle identification number, the office and location
28 at which such vehicle or motorcycle may be redeemed and a statement of
29 all charges, fees and penalties applicable to the impoundment thereof,
30 and of all fines imposed for the illegal operation thereof.

31 2. Except as specifically otherwise provided by law, no all terrain
32 vehicle or off-highway motorcycle seized and impounded, pursuant to
33 paragraph (b) of subdivision two of section four hundred twenty-four of
34 this article, shall be released by the administrative tribunal to the
35 possession of the owner thereof until such owner has:

36 (a) submitted to the administrative tribunal satisfactory proof of
37 identity and ownership including, but not limited to, the appropriate
38 registration for the all terrain vehicle issued pursuant to section
39 twenty-two hundred eighty-five or the off-highway motorcycle issued
40 pursuant to article fifteen of this title;

41 (b) paid the prevailing penalties to the administrative tribunal of
42 the city that impounded the all terrain vehicle or off-highway motorcy-
43 cle pursuant to section twenty-four hundred fourteen of this chapter;
44 and

45 (c) submitted proof to the administrative tribunal that the charges
46 for violation of the provisions of this chapter have been disposed of by
47 the administrative tribunal, and that all fines and penalties arising
48 therefrom have been paid in full by either the owner or operator, or
49 that the owner has posted a bond of seven thousand five hundred dollars
50 with such board as security for payment of all fines and penalties aris-
51 ing out of such violations.

52 3. The administrative tribunal, in its discretion, may waive the
53 requirements of paragraph (b) of subdivision two of this section when
54 the owner of the impounded all terrain vehicle or off-highway motorcycle
55 is a business engaged in the rental or lease of such vehicles, and such
56 owner did not violate any provision of this chapter which would not or

1 did not cause the seizure of the all terrain vehicle or off-highway
2 motorcycle.

3 4. Upon compliance with the provisions of subdivision two of this
4 section, the administrative tribunal shall issue, to the owner of an all
5 terrain vehicle or off-highway motorcycle, an order of release and
6 redemption which shall be accepted by the police department and such
7 department shall surrender such vehicle or motorcycle to the possession
8 of its owner.

9 5. In the event that the charges for violation of the provisions of
10 this chapter which resulted in the impoundment of the all terrain vehi-
11 cle or off-highway motorcycle are dismissed, the owner thereof shall be
12 entitled to a refund of any and all fees paid to the police department
13 and the administrative tribunal shall issue an order providing for such
14 refund.

15 6. Any all terrain vehicle or off-highway motorcycle which is released
16 for redemption by the administrative tribunal and which is not removed
17 by its owner within ten days of such release shall be deemed to be an
18 abandoned vehicle which may be disposed of in accordance with section
19 twelve hundred twenty-four of this chapter.

20 § 4. The vehicle and traffic law is amended by adding a new section
21 2414 to read as follows:

22 § 2414. Seizure and penalties; city having a population of one million
23 or more. 1. Seizure. In addition to any other penalty provided in this
24 chapter, any all terrain vehicle or off-highway motorcycle operated in
25 violation of the provisions of this chapter within a city having a popu-
26 lation of one million or more, shall be subject to seizure and impound-
27 ment pursuant to paragraph (b) of subdivision two of section four
28 hundred twenty-four and section four hundred twenty-four-a of this chap-
29 ter.

30 2. Penalties. In addition to any other penalty provided in this chap-
31 ter, the owner of any all terrain vehicle or off-highway motorcycle
32 operated in violation of the provisions of this chapter, within a city
33 having a population of one million or more, shall (a) for a first
34 conviction of such a violation, be subject to a fine of two hundred
35 fifty dollars and impoundment of the all terrain vehicle or off-highway
36 motorcycle for not more than one hundred days at the expense of the
37 owner thereof at the time of the conviction; and (b) for a second or
38 subsequent violation, within twenty-four months of a previous conviction
39 of the operation of an all terrain vehicle or off-highway motorcycle in
40 violation of this chapter or any state or local law, code or ordinance
41 relating to all terrain vehicles or off-highway motorcycles, be subject
42 to a fine of five hundred dollars and impoundment of the all terrain
43 vehicle or off-highway motorcycle for a period of six months, at the
44 expense of the owner thereof at the time of the conviction.

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