STATE OF NEW YORK

8302--A

Cal. No. 323

2019-2020 Regular Sessions

IN ASSEMBLY

June 13, 2019

Introduced by M. of A. MAGNARELLI, SANTABARBARA -- read once and referred to the Committee on Transportation -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the transportation law, in relation to allowing the commissioner of transportation to impound or immobilize stretch limousines in certain situations

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

Section 1. Paragraph b of subdivision 9 of section 140 of the transportation law, as added by section 3 of part III of chapter 59 of the laws of 2019, is amended to read as follows:

b. **(i)** Whenever an altered motor vehicle commonly referred to as a "stretch limousine" has failed an inspection and been placed out-of-service, the commissioner may direct a police officer or his or her agent to immediately secure possession of the number plates of such vehicle and return the same to the commissioner of motor vehicles. The commissioner shall notify the commissioner of motor vehicles to that effect, and the commissioner of motor vehicles shall thereupon suspend the registration of such vehicle until such time as the commissioner gives notice that the out-of-service defect has been satisfactorily adjusted. Provided, however, that the commissioner shall give notice and an opportunity to be heard within not more than thirty days of the suspension. Failure of the holder or of any person possessing such plates to deliver to the commissioner or his or her agent who requests the same pursuant to this paragraph shall be a misdemeanor. The commissioner of motor vehicles shall have the authority to deny a registration or renewal application to any other person for the same vehicle where it has been determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner of motor vehicles has reasonable grounds to believe that such registration or renewal will

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

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have the effect of defeating the purposes of this paragraph. The procedure on any such suspension shall be the same as in the case of a suspension under the vehicle and traffic law. Operation of such motor vehicle while under suspension as provided in this subdivision shall constitute a class A misdemeanor.

(ii) (a) Upon the seizure of number plates pursuant to subparagraph (i) of this paragraph, if the out-of-service defect is of a type where pursuant to the commissioner's regulations no inspection certificate will be issued until the defect is repaired and a re-inspection is conducted, or is related to its horn, and the commissioner determines that allowing the altered motor vehicle to leave the inspection area would be contrary to public safety, the commissioner may: (A) remove or arrange for the removal of, or may direct any police officer to remove or arrange for the removal of, the altered motor vehicle to a garage or other place of safety under the commissioner's jurisdiction where it shall remain impounded, subject to the provisions of this section; or (B) immobilize or arrange for the immobilization of the altered motor vehicle on premises owned or under the control of the owner of such altered motor vehicle, subject to the provisions of this section. The altered motor vehicle shall be entered into the New York statewide police information network as an impounded or immobilized vehicle and the commissioner shall promptly notify the owner that the altered motor vehicle has been impounded or immobilized and the reason or reasons for such impoundment or immobilization, and give such owner an opportunity to be heard.

(b) A motor vehicle so impounded or immobilized shall be in the custody of the commissioner and shall not be released unless the commissioner is satisfied that repairs have been scheduled or been made to satisfactorily adjust such vehicle's out-of-service defect or defects, and payment has been made to the commissioner for the reasonable costs of removal and storage of the altered motor vehicle if impounded. The registered owner of the vehicle shall be responsible for such payment.

(c) When an altered motor vehicle seized and impounded or immobilized pursuant to this subparagraph has been in the custody of the commissioner for thirty days, the commissioner shall notify the owner and the lienholder, if any, at his or her last known address by certified mail, return receipt requested, that if repairs are not scheduled or made and the vehicle not retrieved pursuant to clause (b) of this subparagraph within thirty days from the date the notice is given, the commissioner may dispose of such vehicle as an abandoned vehicle pursuant to section twelve hundred twenty-four of the vehicle and traffic law and may seek to recover towing and storage costs in a civil action in the name of the people of the state of New York, if applicable. Costs recovered in a civil action under this clause shall be paid to the commissioner for deposit into the state treasury for towing and storage expenses, and any remaining costs recovered in a civil action under this clause shall be paid to the commissioner for deposit into the state treasury for actual and necessary costs related to bus and motor vehicle inspections conducted pursuant to this section.

(d) If an altered motor vehicle has been seized and not retrieved pursuant to the provisions of this subparagraph within thirty days from the date notice is given pursuant to clause (c) of this subparagraph, such altered motor vehicle shall be deemed an abandoned vehicle and the commissioner may dispose of such altered motor vehicle pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Before any such disposal, the commissioner shall give ten days' notice

to the owner, who shall have an opportunity to appear and retrieve such altered motor vehicle in accordance with clause (b) of this subparagraph within ten days of the date such notice is given.

(e) An altered motor vehicle abandoned in accordance with the provisions of this section shall be and become the property of the department, subject however to any lien that was recorded prior to the seizure.

(f) When an altered motor vehicle has been seized and impounded pursuant to this subparagraph, the commissioner shall make the altered motor vehicle available or grant access to it to any owner or any person designated or authorized by such owner for the purpose of (I) taking possession of any personal property found within the altered motor vehicle and (II) obtaining proof of registration, financial security, title or documentation in support thereof.

§ 2. This act shall take effect one year after it shall have become a law. 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 to be made and completed on or before such effective date.