STATE OF NEW YORK

7161

2019-2020 Regular Sessions

IN ASSEMBLY

April 10, 2019

Introduced by M. of A. GALEF, ZEBROWSKI, MOSLEY, PAULIN, D'URSO, LAWRENCE, MONTESANO -- read once and referred 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:

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

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

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

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

(b) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The registered owner of the vehicle shall be responsible for such payment provided, however, that if he or she was not the operator at the time of the offense he or she shall have a cause of action against such operator to recover such costs. Payment prior to release of the vehicle shall not be required in cases where the impound-

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

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ed vehicle was stolen or was rented or leased pursuant to a written agreement for a period of thirty days or less, however the operator of such a vehicle shall be liable for the costs of removal and storage of the vehicle to any entity rendering such service.

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

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

4. A motor vehicle that has been seized and not retrieved pursuant to the foregoing provisions of this section shall be forfeited to the local authority upon expiration of the period of the notice set forth in subdivision three of this section provided, however, in computing such period, the period of time during which a criminal prosecution is or was pending against the owner for a violation of this section shall be excluded. A proceeding to decree such forfeiture and to recover towing and storage costs, if any, to the extent such costs exceed the fair market value of the vehicle may be brought by the local authority in the court in which the criminal action for aggravated unlicensed operation of a motor vehicle was commenced by petition for an order decreeing forfeiture of the motor vehicle accompanied by an affidavit attesting to facts showing that forfeiture is warranted. If the identity and address of the owner and/or lienholder is known to the local authority, ten days notice shall be given to such party, who shall have an opportunity to appear and be heard prior to entry of an order decreeing forfeiture. Where the court is satisfied that forfeiture of a motor vehicle is warranted in accordance with this section, it shall enter an order decreeing forfeiture of such vehicle. Provided, however, that the court at any time prior to entry of such an order may authorize release of the vehicle in accordance with subdivision two of this section upon a showing of good cause for failure to retrieve same prior to commencement of the proceeding to decree forfeiture, but if the court orders release of the motor vehicle as herein provided and the vehicle is not redeemed within ten days from the date of such order, the vehicle shall be deemed

to have been abandoned and the court upon application of the local authority must enter an order decreeing its forfeiture.

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

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

7. When a vehicle has been seized and impounded pursuant to this section, the local authority or any person having custody of the vehicle shall make the 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 vehicle and (ii) obtaining proof of registration, financial security, title or documentation in support thereof.

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