

STATE OF NEW YORK

1370

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law and the vehicle and traffic law, in relation to stretch limousines

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

1 Section 1. Subparagraph (i) of paragraph (b) of subdivision 9 of
2 section 140 of the transportation law, as amended by chapter 9 of the
3 laws of 2020, is amended to read as follows:

4 (i) Whenever an altered motor vehicle commonly referred to as a
5 "stretch limousine" has failed an inspection and been placed out-of-ser-
6 vice, the commissioner may direct a police officer or his or her agent
7 to immediately secure possession of the number plates of such vehicle
8 and return the same to the commissioner of motor vehicles. The commis-
9 sioner shall notify the commissioner of motor vehicles to that effect,
10 and the commissioner of motor vehicles shall thereupon suspend the
11 registration of such vehicle until such time as the commissioner gives
12 notice that the out-of-service defect has been satisfactorily adjusted.
13 Provided, however, that the commissioner shall give notice and an oppor-
14 tunity to be heard within not more than thirty days of the suspension.
15 Failure of the holder or of any person possessing such plates to deliver
16 to the commissioner or his or her agent who requests the same pursuant
17 to this paragraph shall be a misdemeanor. The commissioner of motor
18 vehicles shall have the authority to deny a registration or renewal
19 application to any other person for the same vehicle where it has been
20 determined that such registrant's intent has been to evade the purposes
21 of this paragraph and where the commissioner of motor vehicles has
22 reasonable grounds to believe that such registration or renewal will
23 have the effect of defeating the purposes of this paragraph. The proce-
24 dure on any such suspension shall be the same as in the case of a
25 suspension under the vehicle and traffic law. Operation of such motor

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

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1 vehicle while under suspension as provided in this subdivision shall
2 constitute a class A misdemeanor punishable by a fine of not less than
3 ten thousand dollars for each offense committed, or by imprisonment for
4 not more than one hundred eighty days or by both such fine and imprison-
5 ment.

6 § 2. The vehicle and traffic law is amended by adding a new section
7 511-e to read as follows:

8 § 511-e. Seizure and redemption of unlawfully operated and unsafe
9 commercial motor vehicles. 1. Upon determining that a commercial motor
10 vehicle is operating with an out-of-service defect that is of a type
11 where pursuant to the department of transportation's regulations no
12 inspection would be issued until the defect is repaired and a re-inspec-
13 tion is conducted, or is related to its horn, and an officer, in consul-
14 tation with the department of transportation, determines that allowing
15 the commercial motor vehicle to continue operating would be contrary to
16 public safety, such officer may remove or arrange for the removal of the
17 vehicle to a garage, automobile pound, or other place of safety where it
18 shall remain impounded, subject to the provisions of this section. The
19 vehicle shall be entered into the New York statewide police information
20 network as an impounded vehicle and the impounding police department
21 shall promptly notify the owner and the local authority that the vehicle
22 has been impounded.

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

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

27 (b) Payment has been made for the reasonable costs of removal and
28 storage of the commercial motor vehicle. The registered owner of the
29 vehicle shall be responsible for such payment provided. Payment prior to
30 release of the vehicle shall not be required in cases where the impound-
31 ed vehicle was stolen or was rented or leased pursuant to a written
32 agreement for a period of thirty days or less, however the operator of
33 such a vehicle shall be liable for the costs of removal and storage of
34 the vehicle to any entity rendering such service.

35 (c) Where the commercial motor vehicle was operated by a person who at
36 the time of the offense was the owner thereof, (i) satisfactory evidence
37 that the registered owner or other person seeking to redeem the vehicle
38 has a license or privilege to operate a motor vehicle in this state, and
39 (ii)(A) satisfactory evidence that the out-of-service defect or defects
40 forming the basis for such seizure or impoundment have been repaired or
41 the registered owner has provided satisfactory evidence that the vehicle
42 will be permanently taken out of service, or (B) a certificate issued by
43 the court or administrative tribunal in which the seizure action was
44 commenced ordering release of the vehicle prior to the judgment or
45 compliance therewith in the interest of justice, or (C) a certificate
46 issued by the commissioner of transportation or other officer authorized
47 to enforce compliance with remedying out-of-service defects has waived
48 the authorization to hold the vehicle after finding that such release
49 would not be contrary to public safety.

50 3. When a commercial motor vehicle seized and impounded pursuant to
51 this section has been in the custody of the local authority for thirty
52 days, such authority shall make inquiry in the manner prescribed by the
53 commissioner as to the name and address of the owner and any lienholder
54 and upon receipt of such information shall notify the owner and the
55 lienholder, if any, at his or her last known address by certified mail,
56 return receipt requested, that if the vehicle is not retrieved pursuant

1 to subdivision two of this section within thirty days from the date the
2 notice is given, it may be forfeited. If the vehicle was registered in
3 New York state, the last known address shall be that address on file
4 with the commissioner. If the vehicle was registered out-of-state or
5 never registered, notification shall be made in the manner prescribed by
6 the commissioner.

7 4. A commercial motor vehicle that has been seized and not retrieved
8 pursuant to the foregoing provisions of this section may be forfeited to
9 the local authority upon expiration of the period of the notice set
10 forth in subdivision three of this section provided, however, in comput-
11 ing such period, the period of time during which a criminal prosecution
12 or administrative hearing is or was pending against the owner for poten-
13 tial violations shall be excluded. A proceeding to decree such forfei-
14 ture and to recover towing and storage costs, if any, to the extent such
15 costs exceed the fair market value of the vehicle may be brought by the
16 local authority in the court or administrative tribunal in which the
17 civil or criminal action was commenced by petition for an order decree-
18 ing forfeiture of the motor vehicle, accompanied by an affidavit attest-
19 ing to facts showing that forfeiture is warranted. If the identity and
20 address of the owner and/or lienholder is known to the local authority,
21 ten days' notice shall be given to such party, who shall have an oppor-
22 tunity to appear and be heard prior to entry of an order decreeing
23 forfeiture. Where the court or administrative tribunal is satisfied that
24 forfeiture of a motor vehicle is warranted in accordance with this
25 section, it shall enter an order decreeing forfeiture of such vehicle.
26 Provided, however, that the court or administrative tribunal at any time
27 prior to entry of such an order may authorize release of the vehicle in
28 accordance with subdivision two of this section upon a showing of good
29 cause for failure to retrieve same prior to commencement of the proceed-
30 ing to decree forfeiture, but if the court or administrative tribunal
31 orders release of the motor vehicle as herein provided and the vehicle
32 is not redeemed within ten days from the date of such order, the vehicle
33 shall be deemed to have been abandoned and the court or administrative
34 tribunal upon application of the local authority must enter an order
35 decreeing its forfeiture.

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

39 6. (a) For the purposes of this section, the term "local authority"
40 means the municipality in which the commercial motor vehicle was seized;
41 except that if the vehicle was seized on property of the New York state
42 thruway authority or property under the jurisdiction of the office of
43 parks, recreation and historic preservation, the department of transpor-
44 tation, or a public authority or commission, the term "local authority"
45 means such authority, office, department, or commission. A county may
46 provide by local law that the county may act as the agent for a local
47 authority under this section.

48 (b) For the purposes of this section, the term "commercial motor vehi-
49 cle" shall mean a self-propelled or towed motor vehicle used on a high-
50 way in commerce to transport passengers or property as defined pursuant
51 to 17 NYCRR Part 820.

52 7. When a commercial motor vehicle has been seized and impounded
53 pursuant to this section, the local authority or any person having
54 custody of the vehicle shall make the vehicle available or grant access
55 to it to any owner or any person designated or authorized by such owner
56 for the purpose of (a) taking possession of any personal property found

1 within the vehicle, and (b) obtaining proof of registration, financial
2 security, title or documentation in support thereof, and (c) curing the
3 out-of-service defect or defects.

4 § 3. This act shall take effect one year after it shall have become a
5 law. Effective immediately, the addition, amendment and/or repeal of any
6 rule or regulation necessary for the implementation of this act on its
7 effective date are authorized to be made and completed on or before such
8 effective date.