

# STATE OF NEW YORK

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1370--A

Cal. No. 143

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

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Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

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 section  
2 140 of the transportation law, as amended by chapter 9 of the laws of  
3 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

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

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1 have the effect of defeating the purposes of this paragraph. The proce-  
2 dure on any such suspension shall be the same as in the case of a  
3 suspension under the vehicle and traffic law. Operation of such motor  
4 vehicle while under suspension as provided in this subdivision shall  
5 constitute a class A misdemeanor. Operating such motor vehicle while  
6 under suspension as provided in this subdivision shall be punishable by  
7 a fine of not less than ten thousand dollars and assessed to the holder  
8 or of any person possessing such plates for each offense committed, in  
9 addition to any other fines, penalties or actions taken with respect to  
10 such conduct.

11 § 2. The vehicle and traffic law is amended by adding a new section  
12 511-e to read as follows:

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

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

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

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

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

55 3. When a commercial motor vehicle seized and impounded pursuant to  
56 this section has been in the custody of the local authority for thirty

1 days, such authority shall make inquiry in the manner prescribed by the  
2 commissioner as to the name and address of the owner and any lienholder  
3 and upon receipt of such information shall notify the owner and the  
4 lienholder, if any, at his or her last known address by certified mail,  
5 return receipt requested, that if the vehicle is not retrieved pursuant  
6 to subdivision two of this section within thirty days from the date the  
7 notice is given, it may be forfeited. If the vehicle was registered in  
8 New York state, the last known address shall be that address on file  
9 with the commissioner. If the vehicle was registered out-of-state or  
10 never registered, notification shall be made in the manner prescribed by  
11 the commissioner.

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

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

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

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

1     7. When a commercial motor vehicle has been seized and impounded  
2 pursuant to this section, the local authority or any person having  
3 custody of the vehicle shall make the vehicle available or grant access  
4 to it to any owner or any person designated or authorized by such owner  
5 for the purpose of (a) taking possession of any personal property found  
6 within the vehicle, and (b) obtaining proof of registration, financial  
7 security, title or documentation in support thereof, and (c) curing the  
8 out-of-service defect or defects.

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