STATE OF NEW YORK

1370--A

Cal. No. 143

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 -- 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:

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

(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. Operating such motor vehicle while under suspension as provided in this subdivision shall be punishable by a fine of not less than ten thousand dollars and assessed to the holder or of any person possessing such plates for each offense committed, in addition to any other fines, penalties or actions taken with respect to such conduct.

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

§ 511-e. Seizure and redemption of unlawfully operated and unsafe commercial motor vehicles. 1. Upon determining that a commercial motor vehicle is operating with an out-of-service defect that is of a type where pursuant to the department of transportation's regulations no inspection would be issued until the defect is repaired and a re-inspection is conducted, or is related to its horn, and an officer, in consultation with the department of transportation, determines that allowing the commercial motor vehicle to continue operating would be contrary to public safety, such 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. The 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 commercial 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 commercial motor vehicle. The registered owner of the vehicle shall be responsible for such payment provided. Payment prior to release of the vehicle shall not be required in cases where the impounded vehicle was stolen or was rented or leased pursuant to a written agreement for a period of thirty days or less, however the motor carrier who was operating such vehicle shall be liable for the costs of removal and storage of the vehicle to any entity rendering such service.

(c) Where the commercial 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 out-of-service defect or defects forming the basis for such seizure or impoundment have been repaired or the registered owner has provided satisfactory evidence that the vehicle will be permanently taken out of service, or (B) a certificate issued by the court or administrative tribunal in which the seizure 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 commissioner of transportation or other officer authorized to enforce compliance with remedying out-of-service defects has waived the authorization to hold the vehicle after finding that such release would not be contrary to public safety.

3. When a commercial motor 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 may be forfeited. If the vehicle was registered in New York state, 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 commercial motor vehicle that has been seized and not retrieved pursuant to the foregoing provisions of this section may 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 or administrative hearing is or was pending against the owner for potential violations 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 or administrative tribunal in which the civil or criminal action 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 or administrative tribunal 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 or administrative tribunal 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 or administrative tribunal 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 or administrative tribunal 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. (a) For the purposes of this section, the term "local authority" means the municipality in which the commercial motor vehicle was seized; except that if the 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.

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

7. When a commercial motor 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 (a) taking possession of any personal property found within the vehicle, and (b) obtaining proof of registration, financial security, title or documentation in support thereof, and (c) curing the out-of-service defect or defects.

§ 3. 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.