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LC000818

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- SNOWMOBILES AND  
RECREATIONAL VEHICLES

Introduced By: Senators Zurier, Ciccone, F. Lombardi, Picard, and Britto

Date Introduced: February 16, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 31-3.2 of the General Laws entitled "Snowmobiles and Recreational  
2 Vehicles" is hereby amended by adding thereto the following section:

3 **31-3.2-12. Unlawful operation of recreational vehicles on local highways -- Criminal**  
4 **penalties.**

5 (a) It shall be unlawful for any person to drive or operate any unregistered motorcycle, off-  
6 road motorcycle, dirt bike motorcycle, mini-bike, motor driven scooter or cycle subject to  
7 registration pursuant to title 31 or recreational vehicle, as defined in § 31-3.2-1, on any public or  
8 local highway, as defined in § 31-1-23, unless specifically permitted pursuant to § 31-3.2-7(a)(4)  
9 or by ordinance, or unless exempted as a permitted crossing pursuant to § 31-3.2-7(a)(2).

10 (b) It shall be unlawful for any person to drive or operate any vehicle listed in subsection  
11 (a) of this section on public or local highways in violation of any traffic laws, including, but not  
12 limited to, offenses listed in § 31-27-13.

13 (c) Any person who violates subsections (a) or (b) of this section:

14 (1) For a first or second offense within a period of five (5) years shall commit a civil  
15 violation for which a fine of not less than one hundred dollars (\$100) nor more than five hundred  
16 dollars (\$500) may be imposed.

17 (2) For a third or subsequent offense within a period of five (5) years shall be guilty of a  
18 misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500),

1 imprisonment for not more than thirty (30) days, or both.

2 (d) In addition to the penalties provided pursuant to subsection (c) of this section the  
3 operators of vehicles being operated in violation of subsection (a) of this section may not travel in  
4 formation in violation of § 31-15-12. Any person who violates this section while travelling:

5 (1) In a group of two (2) to four (4) vehicles in violation of subsection (a) of this section:

6 (i) For a first or second offense within a period of five (5) years shall commit a civil  
7 violation for which a fine of not less than one hundred dollars (\$100) nor more than five hundred  
8 dollars (\$500) may be imposed.

9 (ii) For a third or subsequent offense within a period of five (5) years shall be guilty of a  
10 misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500),  
11 imprisonment for not more than thirty (30) days, or both.

12 (2) In a group of five (5) to ten (10) vehicles in violation of subsection (a) of this section:

13 (i) For a first or second offense within a period of five (5) years shall commit a civil  
14 violation for which a fine of not less than five hundred dollars (\$500) nor more than one thousand  
15 dollars (\$1,000) may be imposed.

16 (ii) For a third or subsequent offense within a period of five (5) years shall be guilty of a  
17 misdemeanor, and shall be punished by a fine of not more than one thousand dollars (\$1,000),  
18 imprisonment for not more than sixty (60) days, or both.

19 (3) In a group of more than ten (10) vehicles in violation of subsection (a) of this section:

20 (i) For a first or second offense within a period of five (5) years shall commit a civil  
21 violation for which a fine of not less than one thousand dollars (\$1,000) nor more than one thousand  
22 five hundred dollars (\$1,500) may be imposed.

23 (ii) For a third or subsequent offense within a period of five (5) years shall be guilty of a  
24 misdemeanor, and shall be punished by a fine of not more than two thousand dollars (\$2,000),  
25 imprisonment for not more than ninety (90) days, or both.

26 (e) Enforcement.

27 (1) All local jurisdictions and the department of attorney general shall have the authority  
28 to enforce the provisions of this section and to promulgate rules and regulations necessary to  
29 implement and enforce this section.

30 (2) Law enforcement shall have the authority to impound any vehicle operated in violation  
31 of subsection (a) of this section.

32 (3) No impounded vehicle listed in subsection (a) of this section shall be released until final  
33 disposition of all criminal and/or civil charges relating to the operation or storage of any said  
34 vehicles, nor until proof of ownership and proper registration, according to state statute, is verified,

1 and applicable towing and storage charges are paid. Additionally, the city solicitor or attorney  
2 general shall have the authority to commence forfeiture proceedings, as described in subsection (f)  
3 of this section.

4 (f) In addition to the penalties in subsections (c), (d) and (e) of this section, the following  
5 forfeiture provision shall apply:

6 (1) Any vehicles enumerated in subsection (a) of this section, which have been or are being  
7 used in violation of this section, may be seized and upon conviction forfeited; provided, that no  
8 motor vehicle as enumerated in this section used by any person shall be forfeited under the  
9 provisions of this section unless it shall appear that the owner of the vehicle had knowledge, actual  
10 or constructive, and was a consenting party to the alleged illegal act.

11 (2) Any criminal complaint or violation of traffic laws, including, but not limited to, a  
12 violation of this section shall set forth with reasonable particularity the motor vehicle that the  
13 attorney general or local law enforcement seeks to forfeit pursuant to this section.

14 (3)(i) The court may, upon application of the attorney general or local solicitor, enter a  
15 restraining order or injunction, require any person claiming any interest in the subject vehicle to  
16 execute a satisfactory performance bond to the state, or take any other action to preserve the  
17 availability of the vehicle subject to forfeiture described in this section, whether prior or subsequent  
18 to the filing of a complaint, indictment, or information.

19 (ii) Written notice and an opportunity for a hearing shall be afforded to persons appearing  
20 to have an interest in the vehicle. The hearing, however, is to be limited to the issues of whether:

21 (A) There is a substantial probability that the state or local jurisdiction will prevail on the  
22 issue of forfeiture and that failure to enter the order will result in the vehicle being destroyed,  
23 conveyed, encumbered or further encumbered, removed from the jurisdiction of the court,  
24 depreciated in value or otherwise made unavailable for forfeiture; and

25 (B) The need to preserve the availability of the vehicle through the entry of the requested  
26 order outweighs the hardship on any party against whom the order is to be entered.

27 (4)(i) A temporary restraining order under this section may be entered upon application of  
28 the attorney general or local solicitor without notice or opportunity for a hearing when a complaint,  
29 information, or indictment has not yet been filed with respect to the vehicle if the attorney general  
30 or local jurisdiction demonstrates that there is probable cause to believe that the vehicle with respect  
31 to which the order is sought would, in the event of conviction, be subject to forfeiture under § 31-  
32 27-4.3 and this section and that provision of notice will jeopardize the availability of the vehicle  
33 for forfeiture. The temporary restraining order shall expire within ten (10) days of the date on which  
34 it is entered unless extended for good cause shown or unless the party against whom it is entered

1 consents to an extension for a longer period.

2 (ii) A hearing requested by any party in interest concerning an order entered under this  
3 subsection shall be held at the earliest possible time and prior to the expiration of the temporary  
4 order.

5 (iii) The court may receive and consider, at the hearing held pursuant to this subsection,  
6 evidence and information that would be inadmissible in court.

7 (5) Upon conviction of a person for the covered offense, the court may enter a judgment of  
8 forfeiture of the vehicle described in this section to the state or local jurisdiction and may also  
9 authorize the attorney general or local solicitor to seize the motor vehicle ordered forfeited upon  
10 any terms and conditions that the court shall deem proper. Following the entry of an order declaring  
11 the vehicle forfeited, the court may, upon application of the attorney general or local solicitor:

12 (i) Enter appropriate restraining orders or injunctions;

13 (ii) Require the execution of satisfactory performance bonds, appoint receivers,  
14 conservators, appraisers, accountants, or trustees; or

15 (iii) Take any other action to protect the interest of the state or local jurisdiction in the  
16 property ordered forfeited.

17 (6) All right, title, and interest in the vehicle described in this section vests in the state or  
18 local jurisdiction upon the commission of the act giving rise to forfeiture under this section. Any  
19 such vehicle that is subsequently transferred to any person may be the subject of a special verdict  
20 of forfeiture and shall be ordered forfeited to the state or local jurisdiction, unless the transferee  
21 establishes in a hearing pursuant to subsection (f)(7) of this section that he or she is a bona fide  
22 purchaser for value of the vehicle who at the time of purchase was reasonably without cause to  
23 believe that the vehicle was subject to forfeiture.

24 (7) Procedures subsequent to the special verdict of forfeiture shall be as follows:

25 (i) Following the entry of an order of forfeiture under this section, the state or local  
26 jurisdiction shall publish notice of the order and of its intent to dispose of the vehicle once per week  
27 for at least three (3) weeks in any manner that the attorney general or local solicitor may provide  
28 by regulation. The attorney general or local solicitor shall also, to the extent practicable, provide  
29 written notice to all parties known to have an interest in the vehicle and all parties whose identity  
30 is reasonably subject to discovery and who may have an interest in the forfeited vehicle.

31 (ii) Any person, other than the defendant, asserting any interest in the vehicle that has been  
32 ordered forfeited to the state or local jurisdiction pursuant to this section may, within one hundred  
33 eighty (180) days of the final publication of notice or his or her receipt of notice under subsection  
34 (f)(7)(i) of this section, whichever is earlier, petition the court for a hearing to adjudicate the validity

1 of his or her alleged interest in the vehicle.

2 (iii) The petition shall be signed by the petitioner under penalty of perjury and shall set  
3 forth the nature and extent of the petitioner's right, title, or interest in the vehicle; any additional  
4 facts supporting the petitioner's claim; and the relief sought.

5 (iv) The hearing on the petition shall, to the extent practicable and consistent with the  
6 interest of justice, be held within thirty (30) days of the filing of the petition. The court may  
7 consolidate the hearing on the petition with a hearing on any other petition filed by a person other  
8 than the defendant and concerning the same vehicle.

9 (v) At a hearing, the petitioner may testify and present evidence and witnesses on his or  
10 her own behalf, and cross-examine witnesses who appear at the hearing. The state or local  
11 jurisdiction may present evidence and witnesses in rebuttal and in defense of its claim to the vehicle  
12 and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence  
13 presented at the hearing, the court shall consider the relevant portions of the record of the criminal  
14 case or violations of this section that resulted in the order of forfeiture.

15 (vi) In accordance with its findings at the hearing, the court shall amend the order of  
16 forfeiture if it determines that the petitioner has established by a preponderance of the evidence  
17 that:

18 (A) The petitioner has a right, title, or interest in the vehicle, and the right, title or interest  
19 was vested in the petitioner rather than the defendant or was superior to any right, title, or interest  
20 of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the  
21 vehicle under this section; or

22 (B) The petitioner is a bona fide purchaser for value of any right, title or interest in the  
23 vehicle and was at the time of purchase reasonably without cause to believe that the property was  
24 subject to forfeiture under this section.

25 (8) Following the court's disposition of all petitions filed under this section, or if no such  
26 petitions are filed, following the expiration of the period provided in this section for the filing of  
27 the petitions, the state or local jurisdiction shall have clear title to the vehicle that is the subject of  
28 the order of forfeiture and shall transfer good and sufficient title to any subsequent purchaser,  
29 transferee, or fund as provided in this chapter.

30 (9) Except as provided in this section, no party claiming an interest in the vehicle subject  
31 to forfeiture under this section may:

32 (i) Intervene in a trial or appeal of a criminal case involving the forfeiture of the property;  
33 or

34 (ii) Commence any action against the state or local jurisdiction concerning the validity of

1 the alleged interest.

2 (g) In order to facilitate the identification or location of the vehicle declared forfeited and  
3 to facilitate the disposition of petitions filed pursuant to this section after the entry of an order  
4 declaring a vehicle forfeited to the state or local jurisdiction, the court may, upon application of the  
5 attorney general or local solicitor, order that the testimony of any witness relating to the forfeited  
6 vehicle be taken by deposition and that any designated book, paper, document, record, recording  
7 (electronic or otherwise), or other material not privileged, be produced at the same time and place,  
8 in the same manner as provided for the taking of depositions under the rules of civil procedure.

9 (h) If the vehicle described in this section:

10 (1) Cannot be located;

11 (2) Has been transferred to, sold to or deposited with a third party;

12 (3) Has been placed beyond the jurisdiction of the court;

13 (4) Has been substantially diminished in value by any act or omission of the defendant; the  
14 court shall order the forfeiture of any other property of the defendant up to the value of the subject  
15 property.

16 (i) The court shall have jurisdiction to enter orders as provided in this section without  
17 regard to the location of any property that may be subject to forfeiture under this section or that has  
18 been ordered forfeited under this section.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- SNOWMOBILES AND  
RECREATIONAL VEHICLES

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1           This act would create fines and misdemeanor penalties for any person driving or operating  
2 any recreational vehicle on any local highway unless specifically permitted by ordinance or  
3 exempted as a permitted crossing, and would require operators to obey all traffic laws while on  
4 local highways. Violators would be subject to fines and said recreational vehicles would be subject  
5 to impoundment and forfeiture.

6           This act would take effect upon passage.

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