

2022 -- S 2362

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

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

Introduced By: Senators Zurier, Ciccone, Quezada, and F Lombardi

Date Introduced: February 15, 2022

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) on public or local highways in violation of any traffic laws, including, but not limited to,
12 offenses listed in § 31-27.1-3.

13 (c) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor,
14 and for a first offense, be punished by a fine of not more than five hundred dollars (\$500),
15 imprisonment for not more than thirty (30) days, or both; for a second offense, be punished by a
16 fine of not more than seven hundred and fifty dollars (\$750), imprisonment for not more than sixty
17 (60) days, or both; for a third offense and any subsequent offense, be punished by a fine of not
18 more than one thousand dollars (\$1,000), imprisonment for not more than ninety (90) days, or both.

1 (d) Any person who violates subsection (b) of this section shall be guilty of a misdemeanor;
2 and for a first offense, be punished by a fine of not more than eight hundred dollars (\$800),
3 imprisonment for not more than sixty (60) days, or both; for a second offense, be punished by a
4 fine of not more than nine hundred dollars (\$900), imprisonment for not more than one hundred
5 twenty (120) days, or both; for a third and any subsequent offense, be punished by a fine of not
6 more than one thousand dollars (\$1,000), imprisonment for not more than one hundred and eighty
7 (180) days, or both.

8 (e) In addition to the penalties provided pursuant to subsections (c) and (d) of this section
9 the operators of vehicles being operated in violation of subsection (a) of this section may not travel
10 in formation in violation of § 31-15-12.

11 Any person who violates this subsection while travelling:

12 (1) In a group of two (2) to four (4) vehicles in violation of subsection (a) of this section
13 shall be guilty of a misdemeanor and punished by a fine of not more than five hundred dollars
14 (\$500), imprisonment for not more than thirty (30) days, or both;

15 (2) In a group of five (5) to ten (10) vehicles in violation of subsection (a) of this section
16 shall be guilty of a misdemeanor and punished by a fine of not more than seven hundred fifty dollars
17 (\$750), imprisonment for not more than sixty (60) days, or both; and

18 (3) In a group of more than ten (10) vehicles shall be guilty of a misdemeanor and punished
19 by a fine of not more than one thousand dollars (\$1,000) and imprisonment for not more than ninety
20 (90) days, or both.

21 (f) Enforcement.

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

25 (2) Law enforcement shall have the authority to impound any vehicle operated in violation
26 of subsection (a) of this section operated on a public or local highway.

27 (3) No impounded vehicle listed in subsection (a) of this section shall be released until final
28 disposition of all criminal and/or civil charges relating to the operation or storage of any said
29 vehicles, nor until proof of ownership and proper registration, according to state statute, is verified
30 and applicable towing and storage charges are paid. Additionally, the city solicitor or attorney
31 general shall have the authority to commence forfeiture proceedings, as described in subsection (g)
32 of this section.

33 (g) In addition to the penalties in subsections (c), (d) and (e) of this section, the following
34 forfeiture provision shall apply:

1 ~~(a)(1)~~ ~~Any motor vehicle including, but not limited to, cars, trucks, vessels, or motorcycles,~~
2 Any vehicles enumerated in subsection (a) of this section, which ~~has~~ have been or ~~is~~ are being used
3 in violation of ~~§ 31-27-4.1~~ this section, may be seized and upon conviction forfeited; provided, that
4 no motor vehicle as enumerated in this section used by any person shall be forfeited under the
5 provisions of this chapter unless it shall appear that the owner of the vehicle had knowledge, actual
6 or constructive, and was a consenting party to the alleged illegal act.

7 ~~(a)(2)~~ Any criminal complaint, ~~information, or indictment charging or violation of traffic~~
8 laws, including, but not limited to, a violation of ~~§ 31-27-4.1~~ this section shall set forth with
9 reasonable particularity the motor vehicle that the attorney general or local law enforcement seeks
10 to forfeit pursuant to this section.

11 ~~(b)(1)(3)(i)~~ The court may, upon application of the attorney general or local solicitor, enter
12 a restraining order or injunction, require any person claiming any interest in the subject vehicle to
13 execute a satisfactory performance bond to the state, or take any other action to preserve the
14 availability of the vehicle subject to forfeiture described in ~~§ 31-27-4.3~~ this section, whether prior
15 or subsequent to the filing of a complaint, indictment, or information.

16 ~~(2)(ii)~~ Written notice and an opportunity for a hearing shall be afforded to persons
17 appearing to have an interest in the vehicle, the hearing, however, to be limited to the issues of
18 whether:

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

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

25 ~~(e)-(1)(4)(i)~~ A temporary restraining order under this section may be entered upon
26 application of the attorney general or local solicitor without notice or opportunity for a hearing
27 when a complaint, information, or indictment has not yet been filed with respect to the vehicle if
28 the attorney general or local jurisdiction demonstrates that there is probable cause to believe that
29 the vehicle with respect to which the order is sought would, in the event of conviction, be subject
30 to forfeiture under § 31-27-4.3 and this section and that provision of notice will jeopardize the
31 availability of the vehicle for forfeiture. The temporary restraining order shall expire within ten
32 (10) days of the date on which it is entered unless extended for good cause shown or unless the
33 party against whom it is entered consents to an extension for a longer period.

34 ~~(2)(ii)~~ A hearing requested by any party in interest concerning an order entered under this

1 subsection shall be held at the earliest possible time and prior to the expiration of the temporary
2 order.

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

5 ~~(4)~~(5) Upon conviction of a person for the covered offense, the court may enter a judgment
6 of forfeiture of the vehicle described in § ~~31-27-4.1~~ [this section](#) to the state [or local jurisdiction](#) and
7 may also authorize the attorney general [or local solicitor](#) to seize the motor vehicle ordered forfeited
8 upon any terms and conditions that the court shall deem proper. Following the entry of an order
9 declaring the vehicle forfeited, the court may, upon application of the attorney general [or local](#)
10 [solicitor](#):

11 ~~(1)~~(i) Enter appropriate restraining orders or injunctions;

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

14 ~~(3)~~(iii) Take any other action to protect the interest of the state [or local jurisdiction](#) in the
15 property ordered forfeited.

16 ~~(4)~~(6) All right, title, and interest in the vehicle described in § ~~31-27-4.1~~ [this section](#) vests
17 in the state [or local jurisdiction](#) upon the commission of the act giving rise to forfeiture under this
18 chapter. Any such vehicle that is subsequently transferred to any person may be the subject of a
19 special verdict of forfeiture and shall be ordered forfeited to the state [or local jurisdiction](#), unless
20 the transferee establishes in a hearing pursuant to subsection ~~(4)~~ (7) of this section that he or she is
21 a bona fide purchaser for value of the vehicle who at the time of purchase was reasonably without
22 cause to believe that the vehicle was subject to forfeiture.

23 ~~(5)~~(7) Procedures subsequent to the special verdict of forfeiture shall be as follows:

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

30 ~~(2)~~(ii) Any person, other than the defendant, asserting any interest in the vehicle that has
31 been ordered forfeited to the state [or local jurisdiction](#) pursuant to this section may, within one
32 hundred eighty (180) days of the final publication of notice or his or her receipt of notice under
33 subdivision ~~(4)~~ (i) of this subsection, whichever is earlier, petition the court for a hearing to
34 adjudicate the validity of his or her alleged interest in the vehicle.

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

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

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

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

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

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

24 ~~(9)~~(8) Following the court's disposition of all petitions filed under this section, or if no such
25 petitions are filed, following the expiration of the period provided in this section for the filing of
26 the petitions, the state or local jurisdiction shall have clear title to the vehicle that is the subject of
27 the order of forfeiture and shall transfer good and sufficient title to any subsequent purchaser,
28 transferee, or fund as provided in this chapter.

29 ~~(10)~~(9) Except as provided in this section, no party claiming an interest in the vehicle subject
30 to forfeiture under this section may:

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

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

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

8 ~~(h)~~(i) If the vehicle described in ~~§ 31-27-4.1~~ this section: (1) cannot be located; (2) has
9 been transferred to, sold to or deposited with a third party; (3) has been placed beyond the
10 jurisdiction of the court; (4) has been substantially diminished in value by any act or omission of
11 the defendant; the court shall order the forfeiture of any other property of the defendant up to the
12 value of the subject property.

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

16 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

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

6 This act would take effect upon passage.

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