

Amendment No. 361

Assembly Amendment to Assembly Bill No. 463

(BDR 43-1128)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 463 (§ 3).

| ASSEMBLY ACTION | | Initial and Date | | SENATE ACTION | | Initial and Date | |
|-----------------|--------------------------|------------------|--------------------------|---------------|--------------------------|------------------|--------------------------|
| Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> |
| Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> |
| Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AMI/RRY



Date: 4/23/2011

A.B. No. 463—Provides an expedited process for the forfeiture of certain seized vehicles. (BDR 43-1128)



ASSEMBLY BILL NO. 463—COMMITTEE ON JUDICIARY

MARCH 28, 2011

Referred to Committee on Judiciary

SUMMARY—Provides an expedited process for the forfeiture of certain seized vehicles. (BDR 43-1128)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to motor vehicles; providing an expedited process for the forfeiture of certain seized vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the seizure and forfeiture of certain vehicles, including vehicles which have or which contain a part that has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated. (NRS 482.540) Sections 2 and 3 of this bill add certain vehicles which have been illegally altered in a manner that impairs the structural integrity of the vehicles to the vehicles which are subject to seizure and forfeiture.

Section ~~[1 of this bill]~~ 3 requires a court to schedule a hearing for the forfeiture of such a seized vehicle not later than 7 business days after an action for forfeiture is filed. Section ~~[1]~~ 3 also requires the court to: (1) order the release of the vehicle to the owner of the vehicle ~~[the owner can be identified, to pay the cost of towing and storing the vehicle;]~~ or to another person who the court determines is entitled to the vehicle if the court finds that an identification number or mark which was placed on the vehicle has not been falsely attached, removed, defaced, altered or obliterated and the vehicle has not been illegally altered in a manner that impairs the structural integrity of the vehicle; or (2) ~~[declare]~~ order the vehicle ~~[forfeited]~~ to be destroyed or otherwise disposed of if [the owner of the vehicle cannot after due diligence be found,] there is no satisfactory evidence of ownership, an identification number or mark which was placed on the vehicle has been falsely attached, removed, defaced, altered or obliterated or the vehicle has been illegally altered in a manner that impairs the structural integrity of the vehicle.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. If a vehicle is seized pursuant to NRS 482.540, the Department may file a civil action for forfeiture of the vehicle.~~

~~(a) Pursuant to paragraph (c) of subsection 1 of NRS 4370 in the justice court of the township where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle does not exceed \$10,000; or~~

~~(b) In the district court for the county where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle exceeds \$10,000.~~

~~2. Upon the filing of a civil action pursuant to subsection 1, the court shall schedule a date for a hearing. The hearing must be held not later than 7 business days after the action is filed. The court shall affix the date of the hearing on a form for that purpose and order a copy served by the sheriff, constable or other process server upon each claimant whose identity is known to the Department or who can be identified through the exercise of due diligence.~~

~~3. The court shall:~~

~~(a) Determine the actual cost incurred in towing and storing the vehicle; and~~

~~(b) If the court determines pursuant to subsection 2 of NRS 482.542 that the rightful owner of the vehicle:~~

~~(1) Cannot after due diligence be found, declare the vehicle forfeited; or~~

~~(2) Can be identified, order the owner of the vehicle to pay the cost of towing and storing the vehicle and order the person who is storing the vehicle to immediately release the vehicle to the owner.~~

~~4. As used in this section, "claimant" means any person who claims to have:~~

~~(a) Any right, title or interest of record in the property or proceeds subject to forfeiture;~~

~~(b) Any community property interest in the property or proceeds; or~~

~~(c) Had possession of the property or proceeds at the time of the seizure thereof by the plaintiff.] (Deleted by amendment.)~~

Sec. 2. NRS 482.540 is hereby amended to read as follows:

482.540 1. Any police officer, without a warrant, may seize and take possession of any vehicle:

(a) Which is being operated with improper registration;

(b) Which the police officer has probable cause to believe has been stolen;

(c) Which the police officer has probable cause to believe has been illegally altered in a manner that impairs the structural integrity of the vehicle;

(d) On which any motor number, manufacturer's number or identification mark has been falsely attached, removed, defaced, altered or obliterated; or

~~(d) (e)~~ (e) Which contains a part on which was placed or stamped by the manufacturer pursuant to federal law or regulation an identification number or other distinguishing number or mark that has been falsely attached, removed, defaced, altered or obliterated.

2. A law enforcement agency or an employee of the Department whose primary responsibility is to conduct investigations involving the theft of motor vehicles shall inspect any vehicle seized pursuant to paragraph ~~(c) or~~ (d) or (e) of subsection 1 to determine whether the number or mark in question on the vehicle or part from the vehicle has been falsely attached, removed, defaced, altered or obliterated and whether any person has presented satisfactory evidence of ownership of the vehicle. The agency or employee shall prepare a written report which sets forth the results of the inspection within 30 days after the vehicle is seized.

3. If the results of the report conclude that the number or mark in question has been falsely attached, removed, defaced, altered or obliterated and that there is no satisfactory evidence of ownership, the court shall declare ~~determines that the~~

~~rightful owner of the vehicle cannot be identified and declares~~ the vehicle forfeited ~~and pursuant to section 1 of this act, the Department may~~ proceed in the manner set forth in ~~subsection 3 of~~ NRS 482.542.

4. A person must not be charged with any criminal act which caused a motor vehicle to be seized pursuant to paragraph ~~(c) or~~ (d) or (e) of subsection 1 until the report is completed pursuant to subsection 2.

5. As used in this section, "police officer" means:

(a) Any peace officer of the Department;

(b) Sheriffs of counties and officers of metropolitan police departments and their deputies; and

(c) Marshals and police officers of cities and towns.

Sec. 3. NRS 482.542 is hereby amended to read as follows:

482.542 1. Any vehicle seized pursuant to NRS 482.540 may be removed by a law enforcement agency or the Department to:

(a) A place designated for the storage of seized property.

(b) An appropriate place for disposal if that disposal is specifically authorized by statute.

2. If disposal of ~~the~~ a vehicle seized pursuant to NRS 482.540 is not specifically authorized by statute, ~~the vehicle is subject to forfeiture if it appears to the court having jurisdiction over the proceedings that the rightful owner of the vehicle cannot after due diligence be found.~~ a law enforcement agency or the Department may file a civil action for forfeiture of the vehicle:

(a) Pursuant to paragraph (c) of subsection 1 of NRS 4.370 in the justice court of the township where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle does not exceed \$10,000; or

(b) In the district court for the county where the vehicle which is the subject of the action was seized if the fair market value of the vehicle and the cost of towing and storing the vehicle equals or exceeds \$10,000.

3. Upon the filing of a civil action pursuant to subsection 2, the court shall schedule a date for a hearing. The hearing must be held not later than 7 business days after the action is filed. The court shall affix the date of the hearing on a form for that purpose and order a copy served by the sheriff, constable or other process server upon each claimant whose identity is known to the law enforcement agency or Department or who can be identified through the exercise of due diligence.

4. The court shall:

(a) Order the release of the vehicle to the owner or to another person who the court determines is entitled to the vehicle if the court finds that:

(1) A motor number, manufacturer's number or identification mark which was placed on the vehicle has not been falsely attached, removed, defaced, altered or obliterated; and

(2) The vehicle has not been illegally altered in a manner that impairs the structural integrity of the vehicle; or

(b) Order the vehicle destroyed or otherwise disposed of as determined by the court, if the court finds that:

(1) There is no satisfactory evidence of ownership;

(2) A motor number, manufacturer's number or identification mark which was placed on the vehicle has been falsely attached, removed, defaced, altered or obliterated; or

(3) The vehicle has been illegally altered in a manner that impairs the structural integrity of the vehicle.

1 ~~[2.]~~ 5. If a court declares that a vehicle seized pursuant to NRS 482.540 is
2 forfeited, a law enforcement agency or the Department may:

- 3 (a) Retain it for official use;
4 (b) Sell it; or
5 (c) Remove it for disposal.

6 ~~[4. If at any time after a vehicle is seized pursuant to NRS 482.540 the rightful~~
7 ~~owner of the vehicle demands its return, the Department shall:~~

- 8 ~~— (a) Return the vehicle to the owner; or~~
9 ~~— (b) If the vehicle was declared forfeited by a court and subsequently sold or~~
10 ~~removed for disposal, pay to the owner the fair market value of the vehicle at the~~
11 ~~time of forfeiture.]~~

12 6. As used in this section, “claimant” means any person who claims to
13 have:

14 (a) Any right, title or interest of record in the property or proceeds subject to
15 forfeiture;

16 (b) Any community property interest in the property or proceeds; or

17 (c) Had possession of the property or proceeds at the time of the seizure
18 thereof by a law enforcement agency or the Department.

19 ~~[Sec. 3.]~~ Sec. 4. This act becomes effective on July 1, 2011.