

**As Introduced**

**127th General Assembly  
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**H. B. No. 278**

**Representative Letson**

**Cosponsors: Representatives Domenick, Foley, Brady, Yuko, Seitz, Distel,  
Luckie, Harwood**

**—**

**A B I L L**

To amend sections 4549.61, 4549.62, and 4549.63 of 1  
the Revised Code to modify the guidelines 2  
governing seizure of a motorcycle by a law 3  
enforcement officer when the identity of the 4  
motorcycle cannot be determined and to establish 5  
limited civil liability if the law enforcement 6  
officer or agency fails to comply with specified 7  
guidelines. 8

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4549.61, 4549.62, and 4549.63 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 4549.61.** As used in sections 4549.61 to 4549.63 of the 11  
Revised Code, ~~"vehicle:~~ 12

(A) "Vehicle identification number or derivative thereof of 13  
the vehicle identification number" means any number or derivative 14  
of such a number that is embossed, engraved, etched, or otherwise 15  
marked on any vehicle or vehicle part by the manufacturer. 16  
"Vehicle identification number" also includes a duplicate vehicle 17  
identification number replaced upon a vehicle under the authority 18

of the registrar of motor vehicles. 19

(B) "Motorcycle" has the same meaning as in section 4511.01 20  
of the Revised Code. 21

**Sec. 4549.62.** (A) No person, with purpose to conceal or 22  
destroy the identity of a vehicle or vehicle part, shall remove, 23  
deface, cover, alter, or destroy any vehicle identification number 24  
or derivative of a the vehicle identification number on a vehicle 25  
or vehicle part. 26

(B) No person, with purpose to conceal or destroy the 27  
identity of a vehicle or a vehicle part, shall remove, deface, 28  
cover, alter, or destroy any identifying number that has been 29  
lawfully placed upon a vehicle or vehicle part by an owner of the 30  
vehicle or vehicle part, other than the manufacturer, for the 31  
purpose of deterring its theft and facilitating its recovery if 32  
stolen. 33

(C) No person, with purpose to conceal or destroy the 34  
identity of a vehicle or vehicle part, shall place a counterfeit 35  
vehicle identification number or derivative of a the vehicle 36  
identification number upon the vehicle or vehicle part. 37

(D)(1) No person shall buy, offer to buy, sell, offer to 38  
sell, receive, dispose of, conceal, or, except as provided in 39  
division (D)(4) of this section, possess any vehicle or vehicle 40  
part with knowledge that the vehicle identification number or a 41  
derivative of the vehicle identification number has been removed, 42  
defaced, covered, altered, or destroyed in such a manner that the 43  
identity of the vehicle or part cannot be determined by a visual 44  
examination of the number at the site where the manufacturer 45  
placed the number. 46

(2)(a) A vehicle or vehicle part from which the vehicle 47  
identification number or a derivative of the vehicle 48

identification number has been so removed, defaced, covered, 49  
altered, or destroyed shall be seized and forfeited under Chapter 50  
2981. of the Revised Code unless division (D)(3) or (4) of this 51  
section applies to the vehicle or part. If a derivative of the 52  
vehicle identification number has been removed, defaced, covered, 53  
altered, or destroyed in such a manner that the identity of the 54  
part cannot be determined, the entire vehicle is subject to 55  
seizure pending a determination of the original identity and 56  
ownership of the vehicle and parts of the vehicle, and the rights 57  
of innocent owners to reclaim the remainder or any part of the 58  
vehicle. 59

(b) The lawful owners of parts upon a vehicle that has been 60  
seized under this section and that is subject to forfeiture under 61  
Chapter 2981. of the Revised Code are entitled to reclaim their 62  
respective parts upon satisfactory proof of all of the following: 63

(i) That the part is not needed for evidence in pending 64  
proceedings involving the vehicle or part and is not subject to 65  
forfeiture under Chapter 2981. of the Revised Code; 66

(ii) That the original identity and ownership of the part can 67  
be determined and that the claimant is the lawful owner of the 68  
part; 69

(iii) That no vehicle identification number or derivative of 70  
a the vehicle identification number on the part has been destroyed 71  
or concealed in such a manner that the identity of the part cannot 72  
be determined from that number; 73

(iv) Payment of all costs of removing the part. 74

(3) Divisions (A), (B), and (D)(1) and (2) of this section do 75  
not apply to the good faith acquisition and disposition of 76  
vehicles and vehicle parts as junk or scrap in the ordinary course 77  
of business by a scrap metal processing facility as defined in 78  
division (D) of section 4737.05 of the Revised Code or by a motor 79

vehicle salvage dealer licensed under Chapter 4738. of the Revised 80  
Code. This division does not create an element of an offense or an 81  
affirmative defense, or affect the burden of proceeding with the 82  
evidence or burden of proof in a criminal proceeding. 83

(4)(a) Divisions (D)(1) and (2) of this section do not apply 84  
to the possession of an owner, or the owner's insurer, who 85  
provides satisfactory evidence of all of the following: 86

(i) That the vehicle identification number or derivative 87  
~~thereof~~ of the vehicle identification number on the vehicle or 88  
part has been removed, defaced, covered, altered, or destroyed, 89  
after the owner acquired such possession, by another person 90  
without the consent of the owner, by accident or other casualty 91  
not due to the owner's purpose to conceal or destroy the identity 92  
of the vehicle or vehicle part, or by ordinary wear and tear; 93

(ii) That the person is the owner of the vehicle as shown on 94  
a valid certificate of title issued by this state or certificate 95  
of title or other lawful evidence of title issued in another 96  
state, in a clear chain of title beginning with the manufacturer; 97

(iii) That the original identity of the vehicle can be 98  
established in a manner that excludes any reasonable probability 99  
that the vehicle has been stolen from another person. 100

(b) The registrar of motor vehicles shall adopt rules under 101  
Chapter 119. of the Revised Code to permit an owner described in 102  
division (D)(4)(a) of this section, upon application and 103  
submission of satisfactory evidence to the registrar, to obtain 104  
authority to replace the vehicle identification number under the 105  
supervision of a peace officer, trooper of the state highway 106  
patrol, or representative of the registrar. The rules shall be 107  
designed to restore the identification of the vehicle in a manner 108  
that will deter its theft and facilitate its marketability. Until 109  
~~such~~ those rules are adopted, the registrar shall follow the 110

existing procedure for the replacement of vehicle identification 111  
numbers that have been established by the registrar, with ~~such~~ any 112  
modifications ~~as~~ that the registrar determines to be necessary or 113  
appropriate for the administration of the laws that the registrar 114  
is required to administer. 115

The registrar may issue a temporary permit to an owner of a 116  
motor vehicle who is described in division (D)(4)(a) of this 117  
section to authorize the owner to retain possession of the motor 118  
vehicle and to transfer title to the motor vehicle with the 119  
consent of the registrar. 120

(c) No owner described in division (D)(4)(a) of this section 121  
shall fail knowingly to apply to the registrar for authority to 122  
replace the vehicle identification number, within thirty days 123  
after the later of the following dates: 124

(i) The date of receipt by the applicant of actual knowledge 125  
of the concealment or destruction; 126

(ii) If the property has been stolen, the date thereafter 127  
upon which the applicant obtains possession of the vehicle or has 128  
been notified by a law enforcement agency that the vehicle has 129  
been recovered. 130

The requirement of division (D)(4)(c) of this section may be 131  
excused by the registrar for good cause shown. 132

(E) Whoever violates division (A), (B), (C), or (D)(1) of 133  
this section is guilty of a felony of the fifth degree on a first 134  
offense and a felony of the fourth degree on each subsequent 135  
offense. 136

(F) Whoever violates division (D)(4)(c) of this section is 137  
guilty of a minor misdemeanor. 138

**Sec. 4549.63.** (A) A law enforcement officer may seize and 139  
take possession of a vehicle or vehicle part if the officer has 140

probable cause to believe that any vehicle identification number 141  
or derivative thereof of the vehicle identification number on the 142  
vehicle or part has been removed, defaced, covered, altered, or 143  
destroyed in such a manner that the identity of the vehicle or 144  
part cannot be determined by visual examination of the number at 145  
the site where the manufacturer placed the number. The seizure 146  
shall be pursuant to a warrant, unless the circumstances are 147  
within one of the exceptions to the warrant requirement that have 148  
been established by the supreme court of the United States or of 149  
the supreme court of this state. 150

(B) A (1) Except as provided in divisions (B)(2) and (3) of 151  
this section, a vehicle or vehicle part seized under division (A) 152  
of this section shall be held in custody pursuant to section 153  
2981.11 of the Revised Code or any applicable municipal ordinance. 154

(2) If a vehicle or vehicle part that is seized under 155  
division (A) of this section is a motorcycle or motorcycle part, a 156  
law enforcement officer or agency that seizes the motorcycle or 157  
motorcycle part shall transport, secure, and store the motorcycle 158  
or motorcycle part, or shall cause the motorcycle or motorcycle 159  
part to be transported, secured, and stored, in a manner that 160  
protects the motorcycle or motorcycle part from damage. 161

(3) Within thirty days of seizing a motorcycle or motorcycle 162  
part, the law enforcement officer or agency shall do the 163  
following: 164

(a) Locate the vehicle identification number if possible and 165  
determine whether the motorcycle or motorcycle part is stolen; 166

(b) If the motorcycle or motorcycle part is not determined to 167  
be stolen, except as otherwise provided in any provision of 168  
federal law, return the motorcycle or motorcycle part to the 169  
person from whom the motorcycle or motorcycle part was seized, the 170  
lawful owner, or owner of record in accordance with division (D) 171

of this section or otherwise make a good faith effort to return 172  
the motorcycle or motorcycle part to the person from whom the 173  
motorcycle or motorcycle part was seized, the lawful owner, or 174  
owner of record in accordance with that division. 175

(4) A law enforcement agency that holds a motorcycle or 176  
motorcycle part that is not determined to be stolen longer than 177  
thirty days after the date of seizure of such motorcycle or 178  
motorcycle part is liable for damages. 179

(C)(1) A law enforcement officer who acts in good faith in 180  
the belief that the seizure of a vehicle or vehicle part is 181  
justified under division (A) of this section is immune from any 182  
civil or criminal liability for such seizure. 183

(2) Notwithstanding division (C)(1) of this section, the 184  
state or any political subdivision associated with a law 185  
enforcement officer or agency that seizes a motorcycle or 186  
motorcycle part under this section is liable to the person from 187  
whom the motorcycle or motorcycle part was seized, its lawful 188  
owner, or owner of record in a civil action for any damage to the 189  
motorcycle or motorcycle part that is proximately caused by either 190  
of the following: 191

(a) The negligent failure of the law enforcement officer or 192  
agency to transport, secure, and store the motorcycle or 193  
motorcycle part in a manner that protects the motorcycle or 194  
motorcycle part from damage; 195

(b) The negligent failure of the law enforcement officer or 196  
agency to comply with division (B)(3) of this section. 197

(D) The lawful owner or owner of record of a vehicle or 198  
vehicle part seized under this section that is not needed as 199  
evidence and is not subject to forfeiture under division (D)(2) of 200  
section 4549.62 of the Revised Code may reclaim the property by 201  
submitting satisfactory proof of ownership of the vehicle or 202

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|------------------------------------------------------------------------|-----|
| <u>vehicle part</u> to the law enforcement agency or court holding the | 203 |
| property.                                                              | 204 |
| <b>Section 2.</b> That existing sections 4549.61, 4549.62, and         | 205 |
| 4549.63 of the Revised Code are hereby repealed.                       | 206 |