

As Introduced

**127th General Assembly
Regular Session
2007-2008**

S. B. No. 204

Senator Cafaro

**Cosponsors: Senators Fedor, Miller, D., Mason, Kearney, Smith, Boccieri,
Wilson**

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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 numbers that have been established by the registrar, with ~~such~~ any modifications ~~as~~ that the registrar determines to be necessary or appropriate for the administration of the laws that the registrar is required to administer.

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

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

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

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

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

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

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

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

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

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4549.63 of the Revised Code are hereby repealed.	206