



Senate

General Assembly

File No. 717

February Session, 2016

Substitute Senate Bill No. 463

Senate, April 25, 2016

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR VIOLATIONS OF A MUNICIPAL ORDINANCE CONCERNING THE OPERATION OF A DIRT BIKE, ALL-TERRAIN VEHICLE OR MINI-MOTORCYCLE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-390 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Any municipality may, by ordinance, regulate the operation and
4 use, including hours and zones of use, of snowmobiles and all-terrain
5 vehicles in a manner not inconsistent with the provisions of sections
6 14-379 to 14-390, inclusive, or any regulations adopted pursuant
7 thereto, and may (1) prescribe a penalty for violation of such ordinance
8 in an amount not to exceed one thousand dollars for a first violation, in
9 an amount not to exceed one thousand five hundred dollars for a
10 second violation and in an amount not to exceed two thousand dollars
11 for a third or subsequent violation, and (2) provide for the seizure and
12 forfeiture to the municipality of such all-terrain vehicle for a violation

13 of such ordinance if the population of such municipality is thirty
14 thousand or more, subject to any bona fide lien, lease or security
15 interest in the all-terrain vehicle, including, but not limited to, a lien
16 under section 14-66c.

17 (b) No all-terrain vehicle shall be forfeited under this section to the
18 extent of the interest of an owner or lienholder by reason of any act or
19 omission committed by another person if such owner or lienholder did
20 not know and could not have reasonably known that such all-terrain
21 vehicle was being used in violation of a municipal ordinance adopted
22 pursuant to this section.

23 (c) Any person whose all-terrain vehicle is seized and forfeited
24 pursuant to subsection (a) of this section may appeal therefrom to the
25 superior court for the judicial district in which such seizure occurred,
26 provided such appeal shall be filed not later than thirty days after the
27 date on which such seizure and forfeiture occurred. The person using
28 or in charge of any all-terrain vehicle used in violation of any such
29 provision may be considered the owner thereof for the purpose of any
30 appeal brought pursuant to this subsection, except as provided in
31 subsection (b) of this section. If the court finds a violation of an
32 ordinance adopted pursuant to this section, the court shall order that
33 the all-terrain vehicle used in violation of such ordinance be forfeited
34 to the municipality and delivered to the chief elected official of the
35 municipality to be destroyed, except that if any such all-terrain vehicle
36 is subject to a bona fide lien, lease or security interest, including, but
37 not limited to, a lien under section 14-66c, such property shall not be
38 ordered destroyed in violation of the rights of the holder of such lien,
39 lease or security interest. If the court finds no violation of such
40 ordinance occurred, such person shall not be required to pay the
41 penalty set forth in subsection (a) of this section and shall be permitted
42 to reclaim the all-terrain vehicle seized and forfeited pursuant to
43 subsection (a) of this section.

44 (d) Any municipality that seizes an all-terrain vehicle pursuant to an
45 ordinance adopted pursuant to this section shall destroy such all-

46 terrain vehicle after the expiration of the appeal or appeal period
47 under subsection (c) of this section except if (1) such all-terrain vehicle
48 may be reclaimed pursuant to subsection (c) of this section, or (2) if any
49 such all-terrain vehicle is subject to a bona fide lien, lease or security
50 interest, including, but not limited to, a lien under section 14-66c, such
51 property shall not be so destroyed in violation of the rights of the
52 holder of such lien, lease or security interest.

53 Sec. 2. Section 14-390m of the general statutes is repealed and the
54 following is substituted in lieu thereof (*Effective October 1, 2016*):

55 (a) Any municipality that adopts an ordinance pursuant to section
56 7-148, as amended by this act, to regulate the operation and use on
57 public property, including hours of use, of dirt bikes or mini-
58 motorcycles may (1) prescribe a penalty for violation of such ordinance
59 in an amount not to exceed one thousand dollars for a first violation, in
60 an amount not to exceed one thousand five hundred dollars for a
61 second violation and in an amount not to exceed two thousand dollars
62 for a third or subsequent violation, and (2) provide for the seizure and
63 forfeiture to the municipality of such dirt bike or mini-motorcycle for a
64 violation of such ordinance if the population of such municipality is
65 thirty thousand or more, subject to any bona fide lien, lease or security
66 interest in the dirt bike or mini-motorcycle, including, but not limited
67 to, a lien under section 14-66c.

68 (b) No dirt bike or mini-motorcycle shall be forfeited under this
69 section to the extent of the interest of an owner or lienholder by reason
70 of any act or omission committed by another person if such owner or
71 lienholder did not know and could not have reasonably known that
72 such dirt bike or mini-motorcycle was being used in violation of a
73 municipal ordinance adopted pursuant to section 7-148, as amended
74 by this act.

75 (c) Any person whose dirt bike or mini-motorcycle is seized and
76 forfeited pursuant to subsection (a) of this section may appeal
77 therefrom to the superior court for the judicial district in which such
78 seizure occurred, provided such appeal shall be filed not later than

79 thirty days after the date on which such seizure and forfeiture
80 occurred. The person using or in charge of any dirt bike or mini-
81 motorcycle used in violation of any such provision may be considered
82 the owner thereof for the purpose of any appeal brought pursuant to
83 this subsection, except as provided in subsection (b) of this section. If
84 the court finds a violation of an ordinance adopted pursuant to section
85 7-148, the court shall order that the dirt bike or mini-motorcycle used
86 in violation of such ordinance be forfeited to the municipality and
87 delivered to the chief elected official of the municipality to be
88 destroyed upon a finding of a violation of an ordinance adopted
89 pursuant to section 7-148, as amended by this act, except that if any
90 such dirt bike or mini-motorcycle is subject to a bona fide lien, lease or
91 security interest, including, but not limited to, a lien under section 14-
92 66c, such property shall not be ordered destroyed in violation of the
93 rights of the holder of such lien, lease or security interest. If the court
94 finds no violation of such ordinance occurred, such person shall not be
95 required to pay the penalty set forth in subsection (a) of this section
96 and shall be permitted to reclaim the dirt bike or mini-motorcycle
97 seized and forfeited pursuant to subsection (a) of this section.

98 (d) Any municipality that seizes a dirt bike or mini-motorcycle
99 pursuant to an ordinance adopted pursuant to section 7-148, as
100 amended by this act, shall destroy such dirt bike or mini-motorcycle
101 after the expiration of the appeal or appeal period under subsection (c)
102 of this section except if (1) such dirt bike or mini-motorcycle may be
103 reclaimed pursuant to subsection (c) of this section, or (2) if any such
104 dirt bike or mini-motorcycle is subject to a bona fide lien, lease or
105 security interest, including, but not limited to, a lien under section 14-
106 66c, such property shall not be so destroyed in violation of the rights of
107 the holder of such lien, lease or security interest.

108 (e) For the purposes of this section, (1) "dirt bike" means a two-
109 wheeled motorized recreational vehicle designed to travel over
110 unimproved terrain and not designed for travel on a highway, as
111 defined in section 14-1. "Dirt bike" does not include an all-terrain
112 vehicle, as defined in section 14-379, or a motor-driven cycle, as

113 defined in section 14-1, and (2) "mini-motorcycle" has the same
114 meaning as provided in section 14-289j.

115 Sec. 3. Subdivision (10) of subsection (c) of section 7-148 of the 2016
116 supplement to the general statutes is repealed and the following is
117 substituted in lieu thereof (*Effective October 1, 2016*):

118 (10) (A) Make all lawful regulations and ordinances in furtherance
119 of any general powers as enumerated in this section, and prescribe
120 penalties for the violation of the same not to exceed two hundred fifty
121 dollars, unless otherwise specifically provided by the general statutes.
122 Such regulations and ordinances may be enforced by citations issued
123 by designated municipal officers or employees, provided the
124 regulations and ordinances have been designated specifically by the
125 municipality for enforcement by citation in the same manner in which
126 they were adopted and the designated municipal officers or employees
127 issue a written warning providing notice of the specific violation
128 before issuing the citation, except that no such written warning shall
129 be required for violations of a municipal ordinance regulating the
130 operation or use of a dirt bike, [or] all-terrain vehicle or mini-
131 motorcycle;

132 (B) Adopt a code of ethical conduct;

133 (C) Establish and maintain free legal aid bureaus;

134 (D) Perform data processing and related administrative computer
135 services for a fee for another municipality;

136 (E) Adopt the model ordinance concerning a municipal freedom of
137 information advisory board created under subsection (f) of section 1-
138 205 and establish a municipal freedom of information advisory board
139 as provided by said ordinance and said section;

140 (F) Protect the historic or architectural character of properties or
141 districts that are listed on, or under consideration for listing on, the
142 National Register of Historic Places, 16a USC 470, or the state register
143 of historic places, as defined in section 10-410.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016</i>	14-390
Sec. 2	<i>October 1, 2016</i>	14-390m
Sec. 3	<i>October 1, 2016</i>	7-148(c)(10)

Statement of Legislative Commissioners:

In Section 1, the references to "section 7-148" were replaced with "this section" for accuracy, in Sections 1(a), 1(c), (2)(a), 2(c), 2(d) and 2(e), the provisions were reorganized for clarity, in Sections 1(c) and 2(c) "and forfeiture" was added after "date on which such seizure" for accuracy.

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Potential Revenue Gain	Minimal	Minimal

Explanation

The bill allows municipalities to regulate the use of miniature dirt bikes in the same way that they currently regulate ATVs, dirt bikes, and snowmobiles.

There is a potential revenue gain, estimated to be minimal, to municipalities that levy fines for the violations of ordinances relating to ATVs, dirt bikes, and snowmobiles. Such revenue gain would vary based on the number of violations that involve miniature dirt bikes.

The bill also establishes a process for certain municipalities to confiscate and destroy miniature dirt bikes, dirt bikes, ATVs, and snowmobiles used to violate municipal ordinances. This has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of fines levied by municipalities.

OLR Bill Analysis**sSB 463*****AN ACT CONCERNING THE PENALTY FOR VIOLATIONS OF A MUNICIPAL ORDINANCE CONCERNING THE OPERATION OF A DIRT BIKE, ALL-TERRAIN VEHICLE OR MINI-MOTORCYCLE.*****SUMMARY:**

This bill adds mini-motorcycles to the list of motorized vehicles municipalities may regulate by ordinance. Under the bill, municipalities may regulate the operation and use of mini-motorcycles on public property and impose penalties on them up to the same limits applicable to dirt bike, all-terrain vehicle (ATV), and snowmobile ordinance violations (see BACKGROUND).

Under the bill, municipal officers and employees may issue citations without first providing a written warning to individuals who violate a mini-motorcycle ordinance. By law, the same is true for citations concerning a dirt bike or ATV ordinance.

The bill also authorizes municipalities with a population of 30,000 or more to enforce ordinances concerning mini-motorcycle, dirt bike, or ATV operation by confiscating and destroying any vehicle used to violate them. The bill establishes (1) an appeals process and (2) protections for lienholders and innocent owners.

EFFECTIVE DATE: October 1, 2016

DEFINITION OF “MINI-MOTORCYCLE”

The bill defines mini-motorcycle the same way as the statute prohibiting their use on highways and public sidewalks. Under the law, a “mini-motorcycle” is a vehicle that (1) has no more than three wheels in contact with the ground; (2) has a manufactured seat height of less than 26 inches, measured at the lowest point on top of the seat

cushion without the rider; and (3) is propelled by an engine having a piston displacement of less than 50 cubic centimeters.

CONFISCATED MINI-MOTORCYCLES, DIRT BIKES, OR ATVS

After a municipality seizes a mini-motorcycle, dirt bike, or ATV used to violate an ordinance, the owner has 30 days after the seizure in which to file an appeal with the Superior Court for the judicial district in which the seizure occurred. The bill allows an individual operating or controlling a vehicle at the time of its seizure to be considered an owner for purposes of appealing the seizure.

If the court does not find a violation of the ordinance on appeal, the municipality must allow the person to reclaim the seized vehicle and he or she does not pay any fines for violating the ordinance. But if a court finds a violation, it must order the vehicle (1) forfeited to the municipality and (2) delivered to the municipality's chief elected official for destruction. If no appeal is brought, the municipality must destroy the vehicle at the end of the 30 day appeals period.

The bill's forfeiture provisions are subject to any bona fide lien, lease, or security interest (including a lien for towing and storing a vehicle). The bill protects an owner or lienholder's interest when a forfeiture is due to someone else's act or omission if the owner or lienholder did not know, and could not have reasonably known, that the mini-motorcycle, dirt bike, or ATV was being used in violation of a municipal ordinance. Municipalities may not destroy a forfeited vehicle if doing so would violate the rights of a lien, lease, or security interest holder. (The bill does not specify what municipalities must do with a forfeited vehicle if they cannot destroy it. While the bill states that it protects holders of liens, leases, and security interests, it does not (1) specify how municipalities or the court will identify lienholders, (2) specify how lienholders will learn of the seizure, or (3) explicitly allow lienholders to intervene or otherwise participate in an appeal to protect their interests.)

BACKGROUND

Regulating Dirt Bikes, ATVs, and Snowmobiles by Ordinance

By law, municipalities may adopt ordinances on the operation and use of (1) dirt bikes on public property, including hours of use, and (2) ATVs and snowmobiles, including hours and zones of use. An ordinance may set fines of up to:

1. \$1,000 for a first violation,
2. \$1,500 for a second violation, and
3. \$2,000 for subsequent violations (CGS §§ 14-390 and 14-390m).

Municipal officers or employees may issue a citation for a dirt bike or ATV ordinance violation without first providing a written warning (CGS § 7-148(c)(10)(A)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 50 Nay 0 (04/07/2016)