



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

ACLU OF RI POSITION: OPPOSE

TESTIMONY ON 23-S 361, AN ACT RELATING MOTOR AND OTHER VEHICLES – SNOWMOBILES AND RECREATIONAL VEHICLES May 18, 2023

Though we recognize and appreciate the importance of maintaining safe roadways, the ACLU of RI is opposed to this legislation, which would institute significant penalties for the use of “any unregistered motorcycle, off-road motorcycle, dirt bike motorcycle, mini-bike, motor driven scooter or cycle...or recreational vehicle” on public roads. Not only are the fines and penalties enumerated in this legislation far steeper than those imposed on unregistered *cars*, but the bill also incorporates questionable forfeiture protocols.

Even as just a civil violation, the financial penalties imposed on an individual who commits this offense are extraordinarily harsh. A person who receives a civil violation for the driving of an unregistered car may be subject to a fine of “not more than five hundred dollars” (R.I.G.L. §31-27-13). Yet an individual who uses one of the unregistered vehicles covered by this bill faces not only a potential \$500 dollar fine for the use of the vehicle, but double or triple that amount if there are others driving around them similarly using an unregistered vehicle. The steep fines are especially problematic since a law like this will almost certainly disproportionately affect young and Black and Brown people. In addition, the bill does not explain how police will determine that the other vehicles “in formation” at the time of the stop are unregistered unless all of them are also stopped and cited at the same time.

The bill raises other concerns as well. For example, by explicitly barring the return of an impounded vehicle “until final disposition of all criminal and/or civil charges” and applicable storage charges are paid, this could not only serve as unfair leverage to force pleas from vehicle operators, but the municipality can drag out proceedings and help rack up higher and higher storage fees that will ensure the operator can never recover their vehicle.

The bill also authorizes forfeiture proceedings. The ACLU has long been concerned about the features of many forfeiture laws, and by reapplying some of those features in this context, the legislation propagates this troubling law enforcement tool. One prominent example is the bill’s authorization for a court to consider evidence that would otherwise be inadmissible in judicial proceedings. [Page 4, lines 5-6.] Vehicle forfeiture proceedings also raise numerous constitutional concerns that must be navigated. *See, e.g., Brewster v. Beck*, 859 F.3d 1194 (9th Cir. 2017), *on remand*, 2023 WL 3374458 (C.D. Cal., May 9, 2023).

It is important to emphasize that the dangerous behavior of some ATV riders that is prompting legislation like this – e.g., violating traffic laws or menacing other drivers – is *already* illegal and can be punished civilly and/or criminally depending on the conduct. This legislation goes further by treating low-level traffic offenses as incidents worthy of harsh fines and forfeiture penalties. In doing so, it has the finesse of using a chainsaw where a scalpel would be more appropriate and precise. For these reasons, we oppose this bill. Thank you for your consideration.