

SUBTITLE 40
UNREGISTERED MOTORCYCLES AND SIMILAR VEHICLES

Part 1. Definitions; General Provisions

§ 40-1. Definitions.

(a) *In general.*

In this subtitle, the following words have the meaning indicated.

(b) *Department.*

“Department” means the Department of Transportation.

(c) *Dirt bike.*

(1) “Dirt bike” means, except as provided in paragraph (3) of this subsection, any motorcycle or similar vehicle that is not registered under the Maryland Vehicle Law.

(2) “Dirt bike” includes:

(i) a minibike;

(ii) an all-terrain vehicle of either the 3- or 4-wheel variety; and

(iii) except as provided in paragraph (3) of this subsection, any other motorcycle or similar vehicle that is not eligible for registration under the Maryland Vehicle Law.

(3) “Dirt bike” does not include:

(i) a moped, as defined in State Transportation Article § 11-134.1; or

(ii) a motor scooter, as defined in State Transportation Article § 11-134.5.

(d) *Minibike.*

(1) “Minibike” means, except as provided in paragraph (2) of this subsection, a motor vehicle that:

(i) has a saddle for the use of the rider;

(ii) is designed to travel on not more than 3 wheels in contact with the ground;

(iii) is not eligible for registration under the Maryland Vehicle Law; and

(iv) has:

A. a 10-inch (254 mm) or less nominal wheel-rim diameter;

B. 40 inches or less wheel base;

C. 25 inches or less seat height, measured at the lowest point on the top of the seat cushion without rider; or

D. a propelling engine with piston displacement of 50 cc or less.

(2) "Minibike" does not include:

(i) a moped, as defined in State Transportation Article § 11-134.1; or

(ii) a motor scooter, as defined in State Transportation Article § 11-134.4.

(e) *Motorcycle or similar vehicle.*

(1) "Motorcycle or similar vehicle" means any motor vehicle that is designed to travel on not more than 3 wheels in contact with ground.

(2) "Motorcycle or similar vehicle" includes a minibike.

(f) *Unregistered motorcycle or similar vehicle.*

"Unregistered motorcycle or similar vehicle" means a motorcycle or similar vehicle that:

(1) is eligible for registration under the Maryland Vehicle Law; but

(2) is not in fact registered.

(Ord. 00-040; Ord. 07-398; Ord. 07-504; Ord. 08-063; Ord. 09-217.)

§ 40-2. Exclusions from subtitle.

(a) *In general.*

This subtitle does not apply to any of the following while being used for their designed purposes:

(1) tractors;

(2) snowblowers;

(3) lawn mowers;

(4) wheel chairs; or

(5) golf carts.

(b) *Government vehicles.*

This subtitle does not apply to any vehicle owned and operated by an agency or instrumentality of Federal, State, City, or other local government.

(Ord. 00-040.)

§ 40-3. Rules and regulations.

(a) *Department may adopt.*

The Department of Transportation may adopt rules and regulations to carry out this subtitle.

(b) *Filing with Legislative Reference.*

A copy of all rules and regulations must be filed with the Department of Legislative Reference before they take effect.
(Ord. 00-040; Ord. 07-398.)

§§ 40-4 to 40-5. {Reserved}

Part 2. Prohibited Operations

§ 40-6. Driving or riding; leaving unimmobilized.

(a) *Driving or riding vehicle.*

No person may drive or ride any dirt bike or any unregistered motorcycle or similar vehicle on any public or private property that is located in Baltimore City or, wherever located, that is owned or regulated by the City.

(b) *Possessing unimmobilized vehicle.*

No person may own, control, possess, or have custody of any dirt bike or any unregistered motorcycle or similar vehicle in Baltimore City unless the vehicle is securely locked or otherwise immobilized by a wheel clamp or other object, device, method, or mechanism, whether attached to the vehicle or not, that:

(1) prevents the vehicle from being freely moved; and

(2) cannot be removed or deactivated without the assistance of the vehicle's owner.

(Ord. 00-040; Ord. 01-144; Ord. 08-060.)

§ 40-7. Permitting another to drive or ride.

No owner or other person in control or custody of a dirt bike or an unregistered motorcycle or similar vehicle may permit it to be driven or ridden by any other person on any public or private property that is located in Baltimore City or, wherever located, that is owned or regulated by the City.

(Ord. 00-040; Ord. 01-144.)

§ 40-8. Parents and guardians.

No parent or guardian of a minor may knowingly permit the minor to violate any provision of § 40-6 or § 40-7 of this subtitle.

(Ord. 00-040.)

§ 40-9. Motor fuel sales.*(a) In general.*

No service station nor any other person may sell, transfer, or dispense motor fuel for delivery into any dirt bike or into any unregistered motorcycle or similar vehicle.

(b) Enforcement by citation.

- (1) In addition to any other civil or criminal remedy or enforcement procedure, this section may be enforced by issuance of a civil citation under City Code Article 1, Subtitle 41 {"Civil Citations"}.
- (2) The issuance of a civil citation to enforce this section does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

Editor's Note: Chapters 114 and 115, Acts of 2010, enacted state legislation that, among other things, imposes additional penalties on persons dispensing motor fuel into a dirt bike (State Transportation Article § 21-1128 and § 27-101(dd)) and requires service stations in Baltimore City to post signs of the State and City prohibitions relating to dispensing motor fuel for dirt bikes (State Business Regulation Article § 10-503).

(Ord. 00-130; Ord. 04-683.)

§ 40-10. {Reserved}***Part 3. Seizure and Forfeiture*****§ 40-11. When authorized.***(a) Grounds for seizure.*

Except as provided in subsection (b) of this section, a dirt bike or unregistered motorcycle or similar vehicle is subject to seizure and forfeiture if it is used in violation of this subtitle.

(b) Defense.

A vehicle may not be forfeited under this subtitle solely because of an act or omission by a person other than the vehicle's owner committed or omitted while the vehicle was unlawfully in that other person's possession.

(Ord. 00-040; Ord. 07-398.)

§ 40-12. Seizure by police.*(a) When warrant not needed.*

A police officer need not have a warrant to seize a vehicle if:

- (1) the police officer has probable cause to believe the vehicle has been used in violation of this subtitle; and
- (2) a warrant is not constitutionally required under the circumstances.

(b) *Removal of vehicle.*

Whenever a police officer seizes a vehicle under this subtitle, the police officer may cause it to be moved to a place designated by the Police Commissioner.

(c) *Vehicle not repleviable.*

A vehicle seized under this subtitle is not repleviable and remains in the custody of the Police Department, subject only to the orders and decrees of the court or official with jurisdiction over it.

(Ord. 00-040; Ord. 07-398.)

§ 40-13. Referral to Solicitor.

(a) *Police to refer case.*

Promptly after seizure, the Police Department shall notify the City Solicitor in writing of the facts and circumstances supporting the seizure.

(b) *Solicitor's review.*

(1) On receiving the report, the Solicitor shall conduct an independent review of the facts and circumstances surrounding the seizure.

(2) If the Solicitor finds sufficient evidence that the vehicle was used in violation of this subtitle, the Solicitor shall notify the vehicle's owner, by registered or certified mail, of the seizure and of the City's intent to institute forfeiture proceedings.

(3) If, on the other hand, the Solicitor finds that there is insufficient evidence to prove violation, the Solicitor shall surrender the vehicle to the owner on the owner's request.

(Ord. 00-040.)

§ 40-14. Forfeiture petition; notice.

(a) *Filing; copies to parties in interest.*

If the Solicitor determines that the vehicle should be forfeited, the Solicitor shall, within 90 days after the seizure of the vehicle:

(1) file a forfeiture petition in a court of competent jurisdiction, in the name of the City against the vehicle, as designated by make, model, year, and motor or serial number; and

(2) at the same time, send copies of the petition by registered or certified mail to the owner and any known secured party.

(b) *Contents.*

The petition for forfeiture shall contain:

- (1) the name of the registered owners of the vehicle;
- (2) the name of any secured party whose interest appears among the records maintained by the Clerk of the Circuit Court for Baltimore City;
- (3) a statement of the facts and circumstances surrounding the seizure of the vehicle;
- (4) a statement of the specific grounds for forfeiture; and
- (5) a request that the vehicle be forfeited to the City.

(c) *Publication of notice.*

- (1) Within 7 days of the petition's filing, the Solicitor shall publish notice of the seizure and forfeiture proceeding in 1 or more newspapers of general circulation in the City.

- (2) The notice shall:

- (i) state the substance and object of the forfeiture petition; and

- (ii) state that any person claiming an interest in the seized vehicle must file a defense to the petition within 15 days of the date of the notice.

(Ord. 00-040; Ord. 08-060.)

§ 40-15. Answer to petition.

(a) *When to be made.*

Any defense to the petition must be filed within 15 days after publication of the notice.

(b) *How to be made.*

- (1) All defenses to a petition for forfeiture must be made by answer.

- (2) The answer must:

- (i) comply with the Maryland Rules of Procedure as to form and contents;

- (ii) be divided into numbered paragraphs, each containing a separate and distinctive averment; and

- (iii) respond to each material allegation contained in the petition, specifically admitting, denying, or explaining the facts alleged, unless the respondent is without knowledge or an admission or explanation would tend to incriminate the respondent, in either of which events the respondent must so state and that statement will operate as a denial.

(c) *Effect.*

- (1) Every allegation in the petition that is not denied in the answer is considered admitted, except as to persons unknown.

(2) New or affirmative matter alleged in the answer is considered denied or avoided by the petitioner without the need of any replication, unless the court orders otherwise.
(Ord. 00-040.)

§ 40-16. *{Repealed by Ord. 08-060.}*

§ 40-17. **Order of forfeiture.**

(a) *In general.*

- (1) If the court determines that the vehicle should be forfeited, the court shall order the vehicle forfeited to the City.
- (2) If, however, the court determines that the vehicle is subject to a bona fide recorded security interest created without the knowledge that the vehicle was being or was to be used in violation of this subtitle, the court shall order that the vehicle be released within 5 days to the secured party of record.

(b) *Disposition of vehicle subject to security interest.*

(1) The secured party:

- (i) shall sell the vehicle in a commercially reasonable manner; and
- (ii) may not sell the vehicle to the owner or other person from whom it was seized.

(2) The proceeds of the sale shall be applied as follows:

- (i) to the court costs of the forfeiture proceedings;
- (ii) to the balance due to the secured party, including all reasonable costs incident to the sale;
- (iii) to payment of all other expenses of the proceedings for forfeiture, including expenses of seizure, maintenance, or custody; and
- (iv) to the general funds of the City.

(c) *Disposition of forfeited vehicle.*

A vehicle that has been ordered forfeited to the City may be:

- (1) sold as provided in City Code Article 31, Subtitle 31, Part 5;
- (2) transferred to a charitable organization for export abroad, as provided in City Code Article 31, § 31-58(c); or
- (3) destroyed.

(Ord. 00-040; Ord. 02-285; Ord. 08-060.)

§ 40-18. Order of release.

If, after a full hearing, the court determines that the vehicle should not be forfeited, the court shall order the vehicle released.

(Ord. 00-040.)

§§ 40-19 to 40-20. {Reserved}***Part 4. Penalties*****§ 40-21. Penalties.**

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$1,000 for each offense or to imprisonment for not more than 90 days, or both fine and imprisonment, for each offense.

(Ord. 00-040; Ord. 00-130; Ord. 07-398.)