

EXPLANATORY NOTES

APPLICATION FOR RELEASE FROM SEIZURE (SJ-797A)

The “Application for release from seizure” form is for a person who wish to ask a judge of the Court of Québec for authorization to recover their vehicle.

For further information, as well as the contact information for courthouses in the province of Québec, consult the [list of courthouses](#) on the website of the ministère de la Justice.

TYPES OF FORMS

This form is available in dynamic PDF format, meaning the form can be downloaded from www.justice.gouv.qc.ca and completed directly on screen.

- Dynamic PDF:

After completing the form, you must print it on legal-sized paper, i.e. 8.5 inches by 14 inches (215.9 mm by 355.6 mm). Be sure to set your printer to this paper size.

- Paper:

If you complete the form by hand, please write legibly in block letters.

PROCEDURE

Once the form is completed, keep a copy for your files. You must go to your district courthouse in order to file your application. You must attach the *Procès-verbal – Saisie de véhicule routier* (Statement of seizure) to your application. The clerk will assign you a file number and will indicate the date, place and time your application is to be presented before the judge, so that you can complete the “Notice of presentation” section of the form.

Court costs are payable on filing your application. To find out what the costs are, refer to the website of ministère de la Justice, at www.justice.gouv.qc.ca.

APPLICATION FOR RELEASE FROM SEIZURE

General Information on the Application for Release from Seizure

WHO MAY FILE THE APPLICATION?

The application is for owners of a road or off-highway vehicle seized by a peace officer who wish to ask a judge of the Court of Québec form authorization to recover their vehicle.

The application can be filed when a peace officer seizes and impounds a road or off-highway vehicle for a period of 7, 30 or 90 days.

WARNING

If the owner of the vehicle obtains the release from seizure of the vehicle under section 422.5 (street racing) or 434.6 (vehicle surfing) of the Highway Safety Code, the Société will automatically lift the suspension of the driver's licence or the right to obtain one without requiring that an application to lift suspension of the driver's licence or the right to obtain one be filed.

When one of the reasons for seizure under the exclusive jurisdiction of a judge of the court of Québec has been invoked in the application for release, a judge of the Court of Québec may decide on the merits of all the reasons for the seizure.

If the vehicle has been seized for more than one reason, none of which falls under the exclusive jurisdiction of a judge of the Court of Québec, recovery may be authorized only by the SAAQ.

If the vehicle has been seized for only one reason, whether under the exclusive jurisdiction of a judge or not, a judge of the Court of Québec may decide on the merits of the reason for the seizure, except where the vehicle driven by its owner is seized under sections 209.2.1, 209.2.1.1 (blood alcohol concentration level in excess of 80 mg / reason 33, blood alcohol concentration level in excess of 160 mg / reason 34, refusal to comply with a demand under s. 254 Cr.C. / reason 35 or 36) and 328.2 (excessive speeding / reason 40) of the Highway Safety Code.

The legal provisions that apply to the seizure and release from seizure of a road vehicle are found in sections 209.1, 209.2, 209.2.1, 209.2.1.1, 209.2.1.2, 209.2.1.3, 209.11, 209.11.1, 328.2, 328.3, 422.4, 422.5, 434.5 and 434.6 of the Highway Safety Code. These provisions apply to off-highway vehicles under section 1.1 of the Act Respecting Off-highway Vehicles (CQLR c V-1.2).

▶ HOW TO FILL OUT THIS APPLICATION

Complete the heading and indicate the facts and the conclusion of the application.
Be sure to fill out the section "Notice of Presentation", as well as the back of the form.

HEADING

- ▶ Specify the name of the judicial district where you are filing your application.
- ▶ Indicate the file number assigned by the office of the court.
- ▶ Enter the family name, given name, date of birth, address and postal code of the person who is filing the application.

FACTS

(The numbers of the explanatory notes refer to the corresponding sections of the form.)

1. Enter the date the vehicle was seized, as well as the make, model, year and licence plate number of the vehicle.
2. This statement confirms that, for the same event, the driver's licence of the person in question or his or her right to obtain one has been suspended.
3. This statement confirms that the applicant is the owner of the vehicle seized, as only the owner of the vehicle seized can file an application for release from seizure.
4. Indicate the reason or reasons you wish to recover the vehicle seized. Check (✓) the appropriate box or boxes and, if applicable, give the explanations in support of each reason for your request on a sheet attached to the application.

If the vehicle has been seized for more than one reason according to the minutes of the seizure, you must meet all the conditions for recovery applicable to your situation.

CONCLUSION ("FOR THESE REASONS, I ASK")

- ▶ The object of the application is indicated in the conclusion. The owner of the vehicle seized wishes to ask a judge of the Court of Québec of authorization to recover his or her vehicle.

NOTICE OF PRESENTATION

- ▶ The notice is to inform the Société de l'assurance automobile du Québec of the place, date and time of the presentation of the application to the judge. The court clerk will tell you the information to be provided in the notice.

SERVICE OF THE APPLICATION

- ▶ You must serve a copy of your application for release from seizure, along with a copy of the minutes of the seizure, on the Société de l'assurance automobile du Québec at least two clear days (without calculating the Saturdays and the Sundays) before the date fixed for the presentation of the application to the judge. This serve is made by bailiff. Once your application has been served, you must file the certificate of service with the office of the court two days before the date provided for the presentation, except in an emergency confirmed by the court. The application is heard and decided by preference. (When the time period is expressed in clear days, the day of receipt of the application and the day of presentation to the judge are not taken into account.)

Instead of having the application served, you can deliver a copy of it, by hand, to the Société, where you will receive a signed, dated receipt marked "Copy received in lieu of service".

BACK OF THE FORM

- ▶ This section must be filled out and included with your application.
- ▶ Indicate the number assigned by the clerk to your application.
- ▶ Specify the name of the judicial district where you are filing your application.
- ▶ Enter the family name, given name, date of birth, address, postal code and phone number of the person who is presenting the application.

District: _____

Locality: _____

File No.: _____

Name: _____

Date of birth: _____

and Société de l'assurance automobile du Québec

Address: _____

Plaintiff

Defendant

APPLICATION FOR RELEASE FROM SEIZURE
(Section 209.11, 209.11.1, 328.3, 422.5 or 434.6 – Highway Safety Code)

TO A JUDGE OF THE COURT OF QUÉBEC IN CIVIL MATTERS, THE PLAINTIFF STATES THE FOLLOWING:

FACTS:

1. On _____, a peace officer proceeded, on behalf of the Société de l'assurance automobile du Québec, with the seizure of my _____ vehicle, a _____ (year), _____ (make), _____ (model), licence plate number _____, and with its impounding for a period of 7, 30 or 90 days, pursuant to section 209.1, 209.2, 209.2.1, 209.2.1.1, 328.2, 422.4 or 434.5 of the Highway Safety Code, as indicated in the minutes number _____ of the seizure, a copy of which is enclosed, in support of the application, as exhibit P-1.
2. I am including the other minutes of the suspension of a driver's licence or the right to obtain one issued for the same event, if applicable, the numbers of which are as follows: _____.
3. I am the owner of the vehicle seized.
4. I ask to recover the vehicle seized, on payment of the impounding and towing costs fixed by the custodian, for the following reason or reasons: *(check (✓) the appropriate box or boxes and, if applicable, give the explanations in support of each reason for your request on a sheet attached to the application)*

Reasons for the seizure under exclusive jurisdiction of a judge of the Court of Québec:

■ **Street racing, section 422 of the Highway Safety Code**

- I could not reasonably foresee that the driver would drive the vehicle in a race with another vehicle, or for a wager or a stake; *(reason 60 of the minutes)*
- I did not drive the vehicle in a race with another vehicle, or for a wager or a stake; *(reason 60 of the minutes)*

■ **Vehicle surfing, section 433 of the Highway Safety Code**

- I was not one of the offenders and I could not reasonably foresee that a person would ride on the running board or on any outer part of the vehicle in motion, or ride in the box or dump body of the vehicle in motion; *(reason 61 of the minutes)*
- Being a presumed offender, I was not the driver and I was not in a situation in which a person rode on the running board or on any outer part of the vehicle in motion, or rode in the box or dump body of the vehicle in motion; *(reason 61 of the minutes)*
- Being the driver, I did not tolerate that a person ride on the running board or on any outer part of the vehicle in motion, or ride in the box or dump body of the vehicle in motion; *(reason 61 of the minutes)*

■ **Vehicle surfing, section 434 of the Highway Safety Code**

- I was not one of the offenders and I could not reasonably foresee that a person would hang on to, or be pulled or pushed by the vehicle when it was in motion; *(reason 62 of the minutes)*
- Being a presumed offender, I was not the driver and I was not in a situation in which a person hung on to, or was pulled or pushed by the vehicle when it was in motion; *(reason 62 of the minutes)*
- Being the driver, I did not tolerate that a person hang on to, or be pulled or pushed by the vehicle when it was in motion; *(reason 62 of the minutes)*

File No.: _____

Other reasons for seizure:

Warning:
If you submit more than one reason, one of them must fall under the exclusive jurisdiction of a judge of the Court of Québec

- I was unaware that I was under a sanction; *(reasons 20 and 21 of the minutes)*
- I was unaware that the driver to whom I had entrusted the driving of my vehicle was under a sanction even though I had made a reasonable attempt to verify the information; *(reason 20 or 21 of the minutes)*
- I was unaware that the driver to whom I had entrusted the driving of my vehicle did not hold a licence of the class required to drive the vehicle even though I had made a reasonable attempt to verify the information; *(reason 10, 11, 12 or 13 of the minutes)*
- I did not consent to the driver's being in possession of the vehicle seized;
- I could not reasonably foresee that the driver would drive or have the control or care of the vehicle with a blood alcohol concentration level in excess of 160 mg of alcohol in 100 ml of blood; *(reason 34 of the minutes)*
- I could not reasonably foresee that the driver would drive or have the control or care of the vehicle with a blood alcohol concentration level in excess of 80 mg of alcohol in 100 ml of blood; *(reason 33 of the minutes)*
- I could not reasonably foresee that the driver would, without a reasonable excuse, fail to comply with a peace officer's demand under section 254 of the *Criminal Code*; *(reason 35 or 36 of the minutes)*
- I could not reasonably foresee that the driver would commit a speeding offence under subparagraph 1 of the first paragraph of section 328.1 of the Highway Safety Code. *(reason 40 of the minutes)*

The following reasons must be submitted along with at least one of the reasons within the exclusive jurisdiction of the Court of Québec:

- My blood alcohol concentration level was not in excess of 80 mg of alcohol in 100 ml of blood; *(reason 33 of the minutes)*
- My blood alcohol concentration level was not in excess of 160 mg of alcohol in 100 ml of blood; *(reason 34 of the minutes)*
- I had a reasonable excuse for not complying with a demand made to me by a peace officer under section 254 of the *Criminal Code*; *(reason 35 or 36 of the minutes)*
- I was not driving at a speed corresponding to that provided for in subparagraph 1 of the first paragraph of section 328.1 of the Highway Safety Code. *(reason 40 of the minutes)*

FOR THESE REASONS, I ASK:

TO BE AUTHORIZED to recover the vehicle seized, described above, on payment of the cost of impounding and towing fixed by the custodian.

At _____, on _____

Plaintiff

NOTICE OF PRESENTATION

TO: SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

TAKE NOTICE that the application will be presented to a judge of the Court of Québec in the district of _____, at the courthouse of _____, room _____, on _____, at _____ a.m./p.m.

Please act accordingly.

At _____, on _____

Plaintiff

Copy of application and minutes of seizure received in lieu of service and consent to file

At _____, on _____

Signature of SAAQ employee

File No.:

COURT OF QUÉBEC
Civil Division

District:

Plaintiff

Société de l'assurance automobile du Québec

Defendant

**APPLICATION FOR RELEASE
FROM SEIZURE**

Section 209.11, 209.11.1, 328.3,
422.5 or 434.6 H.S.C.)

Plaintiff:

Address:

Telephone: home
work