

EXPLANATORY NOTES

MOTION FOR RELEASE FROM SEIZURE (SJ-797A)

The motion for release from seizure is for owners of a road vehicle seized by a peace officer who wish to ask a judge of the Court of Québec for authorization to recover their vehicle. For further information and for contact information for all Québec courthouses, you can consult the list of [courthouses](#) on the Internet site of the ministère de la Justice.

TYPE OF FORM

The “Motion for Release from Seizure” form is available in dynamic PDF format, i.e. after the form is downloaded, it may be completed on screen.

Print the completed form on legal-size paper, i.e. 8.5 inches by 14 inches (215.9 mm by 355.6 mm). Be sure to set your printer to this page format.

PROCEDURE

After completing the form, you should keep a copy for your personal records. You must then go to the courthouse in the district in which you are filing your motion. The clerk will assign you a record number and will indicate the date and time your motion is to be presented to the Court. After it is filed, you must serve your motion on the Société de l'assurance automobile du Québec, after completing the “Notice of presentation” section, entering the information given to you by the clerk. You should also plan to pay the [costs](#) at that time.

Motion for Release from Seizure

(Application to cancel the seizure of a road vehicle)

General Information on the Motion for Release from Seizure

WHO MAY FILE THE MOTION?

The motion is for owners of a road vehicle seized by a peace officer who wish to ask a judge of the Court of Québec for authorization to recover their vehicle.

The motion can be filed when a peace officer seizes and impounds a vehicle for a period of 30 days because there is reason to believe the driver does not hold a licence of the class required to drive the vehicle, or because the driver is under a sanction.

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, 209.11 and 328.2 of the *Highway Safety Code*.

How to fill out his motion

Complete the heading and indicate the facts and the conclusion of the motion. 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 motion.
- ▶ 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 motion.

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 the applicant is the owner of the vehicle seized, as only the owner of the vehicle seized can file a motion for release from seizure.
3. Indicate the reason you wish to recover the vehicle seized. Check (✓) only one box and give the appropriate explanations in the space provided or on a sheet attached to the motion.

CONCLUSION ("FOR THESE REASONS, I ASK")

- ▶ The object of the motion is indicated in the conclusion. The owner of the vehicle seized wishes to ask a judge of the Court of Québec for 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 motion to the judge. The court clerk will tell you the information to be provided in the notice.

SERVICE OF THE MOTION

- ▶ You must serve a copy of your motion for release from seizure, along with a copy of the minutes of the seizure, on the Société d'assurance automobile du Québec by registered, certified or priority mail or by bailiff at least two clear days (without calculating the Saturdays and the Sundays) before the date fixed for the presentation of the motion to the judge. Once your motion has been served, you must file the original and the certificate of service (either the post office receipt or the bailiff receipt) with the office of the court one clear juridical day before the day of presentation to the judge. The motion is heard and decided by preference. (When the time period is expressed in clear days, the day of receipt of the motion and the day of presentation to the judge are not taken into account.)

You can also deliver a copy of the motion yourself, by hand, to the Société de l'assurance automobile du Québec, where you will receive a dated receipt marked "Copy received in lieu of service". Where a motion is served on it, the Société may plead that the conclusions of the motion cannot be granted in whole or in part.

BACK OF THE FORM

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

Name: _____

Date of birth: _____

and

Société de l'assurance automobile du Québec

Address: _____

Applicant

Respondent

Motion for Release from Seizure

(Section 209.11 – Highway Safety Code)

TO A JUDGE OF THE COURT OF QUÉBEC IN CIVIL MATTERS, THE APPLICANT 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 road vehicle, a _____ (year), _____ (make), _____ (model), licence plate number _____, and with its impounding for a period of 30 days, pursuant to section 209.1, 209.2, 209.2.1 or 328.2 of the *Highway Safety Code*, as indicated in the minutes number _____ of the seizure, a copy of which is enclosed, in support of the motion, as exhibit R-1.
2. I am the owner of the road vehicle seized.
3. I ask to recover the vehicle seized, on payment of the impounding and towing costs fixed by the custodian, for the following reason: (check (✓) only one box and give the explanations supporting your application in the space below or, if need be, on a sheet attached to the motion,)
 - I was unaware that I was under a sanction;
 - 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;
 - 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;
 - 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 80 mg of alcohol in 100 ml of blood;
 - 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*;
 - I could not reasonably foresee that the driver would commit a speeding offence under subparagraph 1 of the first paragraph of section 328.1.

FOR THESE REASONS, I ASK:

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

In _____, on _____

Applicant

NOTICE OF PRESENTATION

TO: SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

TAKE NOTICE that the motion 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.

In _____, on _____

Applicant

No.

COURT OF QUÉBEC
Civil Division

District

Applicant

v.

Société de l'assurance automobile
du Québec

Respondent

**MOTION FOR RELEASE
FROM SEIZURE**
(Section 209.11, HSC)

Applicant:

Address:

Tel.: home
work

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

In _____, on _____

Signature of SAAQ employee