S T A T E O F N E W Y O R K

34

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic control indications in Nassau county

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision (a) of section 1111-a of the vehicle and traffic law, as amended by chapter 658 of the laws of 2006, is amended to read as follows:

(a) 1. Notwithstanding any other provision of law, each city with a population of one million or more [is] AND THE COUNTY OF NASSAU ARE hereby EACH INDIVIDUALLY authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city OR COUNTY in accordance with the provisions of this section. Such demonstration program shall empower a city to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred intersections within such city at any one time AND SHALL EMPOWER SUCH COUNTY TO INSTALL AND OPERATE TRAFFIC-CONTROL SIGNAL PHOTO VIOLATION-MONITORING DEVICES AT NO MORE THAN FIFTY INTERSECTIONS WITHIN SUCH COUNTY AT ANY ONE TIME.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo violation-monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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or photographs allow for the identification of the contents of a vehicle, provided that such city OR COUNTY has made a reasonable effort to comply with the provisions of this paragraph.

S 2. Subdivisions (b), (d) and (e) of section 1111-a of the vehicle and traffic law, subdivisions (b) and (d) as amended by chapter 658 of the laws of 2006 and subdivision (e) as amended by chapter 479 of the laws of 1994, are amended to read as follows:

(b) In any city OR COUNTY which has adopted a local law or ordinance pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo violation-monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city OR COUNTY in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that in a city which, by local law, has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau, AND IN NASSAU COUNTY IF, BY LOCAL LAW, SUCH COUNTY AUTHORIZES ADJUDICATION OF SUCH OWNER LIABILITY BY THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY, SUCH SCHEDULE SHALL BE PROMULGATED BY THE BOARD OF JUDGES OF THE DISTRICT COURT FOR NASSAU COUNTY, PURSUANT TO SUBDIVISION ONE OF SECTION TWO THOUSAND FOUR HUNDRED EIGHT OF THE UNIFORM DISTRICT COURT ACT. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

S 3. Paragraph 4 of subdivision (g) of section 1111-a of the vehicle and traffic law, as added by chapter 746 of the laws of 1988, is amended to read as follows:

4. The notice of liability shall be prepared and mailed by the city OR COUNTY having jurisdiction over the intersection where the violation occurred, or by any other entity authorized by the city OR COUNTY to prepare and mail such notification of violation.

S 4. Subdivision (h) of section 1111-a of the vehicle and traffic law, as added by chapter 746 of the laws of 1988, is amended to read as follows:

(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau OR IN NASSAU COUNTY, BY THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions, except that any city which has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations may, by local law, authorize such adjudication by such tribunal.

S 5. Paragraph 1 of subdivision (j) of section 1111-a of the vehicle and traffic law, as added by chapter 746 of the laws of 1988, is amended to read as follows:

1. In a city OR A COUNTY where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau, THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY or a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends to the traffic violations bureau, THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the TRAFFIC VIOLATIONS bureau or court of the date and time of such violation, OR WITHIN FORTY-TWO DAYS AFTER RECEIVING NOTICE FROM THE NASSAU COUNTY TRAFFIC AND PARKING VIOLATIONS AGENCY OF THE DATE AND TIME OF SUCH VIOLATION, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven OR FORTY-TWO day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

S 6. Subdivision (m) of section 1111-a of the vehicle and traffic law, as amended by chapter 658 of the laws of 2006, is amended to read as follows:

(m) In any COUNTY OR city which adopts a demonstration program pursuant to subdivision (a) of this section, such COUNTY OR city shall submit an annual report on the results of the use of a traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand [seven] TEN and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. within SUCH COUNTY OR each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. within SUCH COUNTY OR each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the total number of notices of liability issued for violations recorded by such systems;

6. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such COUNTY OR city from such adjudications;

9. expenses incurred by such COUNTY OR city in connection with the program; and

10. quality of the adjudication process and its results.

S 7. This act shall take effect immediately, provided, however, the amendments to section 1111-a of the vehicle and traffic law made by this act shall not affect the repeal of such section and shall be deemed repealed therewith.