1327

2011-2012 Regular Sessions

IN SENATE

January 6, 2011

- Introduced by Sens. DILAN, DIAZ, VALESKY -- 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 surcharges for moving violations in school traffic safety and speed zones

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

1 Section 1. This act shall be known and may be cited as "Clarente's 2 Law".

3 S 2. Subdivision 1 of section 1809 of the vehicle and traffic law, as 4 amended by section 2 of part DD of chapter 56 of the laws of 2008, the 5 opening paragraph and paragraph (c) as amended by section 10 of part II 6 of chapter 59 of the laws of 2010, is amended to read as follows:

7 Whenever proceedings in an administrative tribunal or a court of 1. 8 this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule 9 or regulation adopted pursuant to this chapter, other than a traffic 10 infraction involving standing, stopping, or parking or violations by 11 pedestrians or bicyclists, or other than an adjudication of liability of 12 13 an owner for a violation of subdivision (d) of section eleven hundred 14 eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of 15 16 an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, or other than an adjudication in accordance 17 18 with section eleven hundred eleven-c of this chapter for a violation of 19 a bus lane restriction as defined in such section, there shall be levied 20 a crime victim assistance fee and a mandatory surcharge, in addition to 21 22 sentence required or permitted by law, in accordance with the any 23 following schedule:

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

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1 (a) Whenever proceedings in an administrative tribunal or a court of 2 this state result in a conviction for a traffic infraction pursuant to 3 article nine of this chapter, there shall be levied a crime victim 4 assistance fee in the amount of five dollars and a mandatory surcharge, 5 in addition to any sentence required or permitted by law, in the amount 6 of twenty-five dollars.

7 (b) Whenever proceedings in an administrative tribunal or a court of 8 this state result in a conviction for a misdemeanor or felony pursuant 9 to section eleven hundred ninety-two of this chapter, there shall be 10 levied, in addition to any sentence required or permitted by law, a 11 crime victim assistance fee in the amount of twenty-five dollars and a 12 mandatory surcharge in accordance with the following schedule:

13 (i) a person convicted of a felony shall pay a mandatory surcharge of 14 three hundred dollars;

15 (ii) a person convicted of a misdemeanor shall pay a mandatory 16 surcharge of one hundred seventy-five dollars.

(c) Whenever proceedings in an administrative tribunal or a court of 17 18 this state result in a conviction for an offense under this chapter 19 other than a crime pursuant to section eleven hundred ninety-two of this 20 chapter, or a traffic infraction under this chapter, or a local law, 21 ordinance, rule or regulation adopted pursuant to this chapter, other 22 than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication 23 liability of an owner for a violation of subdivision (d) of section 24 of 25 eleven hundred eleven of this chapter in accordance with section eleven 26 hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven 27 28 29 hundred eleven-b of this chapter, or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liabil-30 ity of an owner for a violation of toll collection regulations pursuant 31 32 to section two thousand nine hundred eighty-five of the public authori-33 ties law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or other than 34 an adjudication in accordance with section eleven hundred eleven-c of 35 this chapter for a violation of a bus lane restriction as defined 36 in 37 such section, OR OTHER THAN A CONVICTION FOR WHICH A MANDATORY SURCHARGE 38 AND CRIME VICTIM ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION, there shall be levied a crime victim assistance fee in 39 40 the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of fifty-five 41 42 dollars.

(D)(I) WHENEVER:

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(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE
RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A
CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR
FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

49 (B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY 50 WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN AND SPEED ZONE 51 PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE 52 EIGHTY 53 FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE 54 AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR 55 PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC 1 2 INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY INFRACTIONS 3 PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER 4 FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF 5 THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS 6 CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR 7 AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL (E) 8 COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS 9 SIXTEEN-A, 10 SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE 11 LAWS OF NINETEEN HUNDRED FIFTY.

12 PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC (III) FOR THE13 SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND 14 THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, 15 ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM 16 SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN 17 HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, 18 SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAP-19 TER.

20 3. Subdivision 1 of section 1809 of the vehicle and traffic law, as S 21 amended by section 10-a of part II of chapter 59 of the laws of 2010, is 22 amended to read as follows:

23 1. (A) Whenever proceedings in an administrative tribunal or a court 24 of this state result in a conviction for a crime under this chapter or a 25 traffic infraction under this chapter, or a local law, ordinance, rule 26 or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, parking or motor vehicle equip-27 ment or violations by pedestrians or bicyclists, or other than an adju-28 29 dication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section 30 eleven hundred eleven-a of this chapter, OR OTHER THAN A CONVICTION FOR 31 32 WHICH A MANDATORY SURCHARGE AND CRIME VICTIM ASSISTANCE FEE ARE LEVIED 33 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, or other than an adjudication of liability of an owner for a violation of subdivision 34 (d) of section eleven hundred eleven of this chapter in accordance with section 35 eleven hundred eleven-b of this chapter, or other than an adjudication 36 37 in accordance with section eleven hundred eleven-c of this chapter for a 38 violation of a bus lane restriction as defined in such section, there 39 shall be levied a mandatory surcharge, in addition to any sentence 40 required or permitted by law, in the amount of twenty-five dollars. 41

(B)(I) WHENEVER:

(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE 42 RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER 43 THAN A 44 CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR 45 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDI-46 NANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

47 (B) OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY SUCH 48 AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN 49 PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED 50 EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE 51 AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE FEEIN THEAMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED 52 OR 53 PERMITTED BY LAW.

54 (II)THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC 55 INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS ΒY 56 PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER

FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN 1 OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS 2 3 CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR 4 (E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL 5 COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED 6 THE PUBLIC AUTHORITIES LAW OR SECTIONS EIGHTY-FIVE OF SIXTEEN-A, 7 SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE 8 LAWS OF NINETEEN HUNDRED FIFTY.

9 (III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC 10 SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, 11 THREE HUNDRED 12 ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN 13 14 HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, 15 SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAP-16 TER.

17 S 4. Subdivision 1 of section 1809 of the vehicle and traffic law, as 18 amended by section 10-b of part II of chapter 59 of the laws of 2010, is 19 amended to read as follows:

20 1. (A) Whenever proceedings in an administrative tribunal or a court 21 of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction 22 involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, OR OTHER THAN A CONVICTION FOR 23 24 25 WHICH A MANDATORY SURCHARGE AND CRIME VICTIM ASSISTANCE FEE ARE LEVIED 26 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, or other than an adjudi-27 cation in accordance with section eleven hundred eleven-c of this chap-28 for a violation of a bus lane restriction as defined in such ter 29 section, there shall be levied a mandatory surcharge, in addition to any 30 sentence required or permitted by law, in the amount of seventeen 31 dollars.

(B)(I) WHENEVER:

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(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE
RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A
CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR
FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

38 (B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY 39 AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN 40 PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE 41 EIGHTY FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE 42 IN THE 43 OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR AMOUNT 44 PERMITTED BY LAW.

45 (II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY 46 47 PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER 48 FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF 49 THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS 50 (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR CHAPTER; 51 (E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED 52 EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A, 53 54 SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE 55 LAWS OF NINETEEN HUNDRED FIFTY.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC 1 2 SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND 3 THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, 4 ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM 5 SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN 6 HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, 7 SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAP-8 TER.

9 S 5. Subdivision 1 of section 1809 of the vehicle and traffic law, as 10 separately amended by chapter 16 of the laws of 1983 and chapter 62 of 11 the laws of 1989, is amended to read as follows:

12 1. (A) Whenever proceedings in an administrative tribunal or a court 13 of this state result in a conviction for a crime under this chapter or a 14 traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, OR OTHER THAN A CONVICTION FOR 15 16 17 WHICH A MANDATORY SURCHARGE AND CRIME VICTIM ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, there shall be levied a 18 19 mandatory surcharge, in addition to any sentence required or permitted 20 by law, in the amount of seventeen dollars. 21

(B)(I) WHENEVER:

(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE 22 23 RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A 24 CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR 25 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDI-26 NANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

27 (B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN 28 AND SPEED ZONE 29 PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE 30 FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE 31 IN THE 32 OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR AMOUNT 33 PERMITTED BY LAW.

34 (II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC 35 INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER 36 37 FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF 38 THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS 39 CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR 40 (E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED 41 EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A, 42 43 SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE 44 LAWS OF NINETEEN HUNDRED FIFTY.

45 (III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND 46 47 THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, 48 ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM 49 SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN 50 HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, 51 SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAP-52 TER.

53 S 6. This act shall take effect on the first of November next succeed-54 ing the date on which it shall have become a law and shall apply to violations occurring on and after such effective date; provided that: 55

a. the amendments to subdivision 1 of section 1809 of the vehicle and traffic law made by section two of this act shall be subject to the sepiration of such subdivision when upon such date the provisions of section three of this act shall take effect;

5 b. the amendments to subdivision 1 of section 1809 of the vehicle and 6 traffic law made by section three of this act shall be subject to the 7 expiration of such subdivision when upon such date the provisions of 8 section four of this act shall take effect; and

9 c. the amendments to subdivision 1 of section 1809 of the vehicle and 10 traffic law made by section four of this act shall be subject to the 11 expiration of such subdivision when upon such date the provisions of 12 section five of this act shall take effect.