

2353--B

Cal. No. 660

2011-2012 Regular Sessions

I N S E N A T E

January 19, 2011

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommended to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law, in relation to authorizing certain cities to adjudicate traffic infractions

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

1 Section 1. Section 155 of the vehicle and traffic law, as amended by
2 chapter 628 of the laws of 2002, is amended to read as follows:
3 S 155. Traffic infraction. The violation of any provision of this
4 chapter, except articles forty-seven and forty-eight, or of any law,
5 ordinance, order, rule or regulation regulating traffic which is not
6 declared by this chapter or other law of this state to be a misdemeanor
7 or a felony. A traffic infraction is not a crime and the punishment
8 imposed therefor shall not be deemed for any purpose a penal or criminal
9 punishment and shall not affect or impair the credibility as a witness
10 or otherwise of any person convicted thereof. This definition shall be
11 retroactive and shall apply to all acts and violations heretofore
12 committed where such acts and violations would, if committed subsequent
13 to the taking effect of this section, be included within the meaning of
14 the term "traffic infraction" as herein defined. Except in those
15 portions of Suffolk county for which a district court has been estab-
16 lished, outside of cities having a population in excess of two hundred
17 thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administra-
18 tive tribunals have heretofore been established AND OUTSIDE OF CITIES

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

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1 HAVING A POPULATION IN EXCESS OF ONE MILLION IN WHICH ADMINISTRATIVE
2 TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, courts and judicial officers
3 heretofore having jurisdiction over such violations shall continue to do
4 so and for such purpose such violations shall be deemed misdemeanors and
5 all provisions of law relating to misdemeanors except as provided in
6 section eighteen hundred five of this chapter and except as herein
7 otherwise expressly provided shall apply except that no jury trial shall
8 be allowed for traffic infractions. In those portions of Suffolk county
9 for which a district court has been established, and in cities having a
10 population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED
11 TWENTY THOUSAND in which administrative tribunals have heretofore been
12 established AND IN CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION
13 IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, the
14 criminal courts of such cities or portions of Suffolk county in which a
15 district court has been established shall have jurisdiction to hear and
16 determine any complaint alleging a violation constituting a traffic
17 infraction, except that administrative tribunals heretofore established
18 in such cities or portions of Suffolk county in which a district court
19 has been established shall have jurisdiction to hear and determine any
20 charge of an offense which is a traffic infraction, except parking,
21 standing or stopping. In cities having a population in excess of two
22 hundred thousand in which administrative tribunals have heretofore been
23 established, and any such administrative tribunal established by the
24 city of Yonkers, the city of Peekskill, or the city of Syracuse, such
25 tribunals shall have jurisdiction to hear and determine any charge of an
26 offense which is a parking, standing or stopping violation. Any fine
27 imposed by an administrative tribunal shall be a civil penalty. For
28 purposes of arrest without a warrant, pursuant to article one hundred
29 forty of the criminal procedure law, a traffic infraction shall be
30 deemed an offense.

31 S 2. Subdivision 1 of section 225 of the vehicle and traffic law, as
32 amended by chapter 173 of the laws of 1990, is amended to read as
33 follows:

34 1. Notwithstanding any inconsistent provision of law, all violations
35 of this chapter or of a law, ordinance, order, rule or regulation relat-
36 ing to traffic, except parking, standing, stopping or pedestrian
37 offenses, which occur within a city having a population of two hundred
38 thousand or more BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which
39 administrative tribunals have heretofore been established, OR WITHIN A
40 CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH ADMINISTRATIVE
41 TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, or within that portion of
42 Suffolk county for which a district court has been established, and
43 which are classified as traffic infractions, may be heard and determined
44 pursuant to the regulations of the commissioner as provided in this
45 article. Whenever a crime and a traffic infraction arise out of the same
46 transaction or occurrence, a charge alleging both offenses may be made
47 returnable before the court having jurisdiction over the crime. Nothing
48 herein provided shall be construed to prevent a court, having jurisdic-
49 tion over a criminal charge relating to traffic or a traffic infraction,
50 from lawfully entering a judgment of conviction, whether or not based on
51 a plea of guilty, for any offense classified as a traffic infraction.

52 S 3. Pending actions and proceedings. (a) No proceeding involving a
53 charge of a traffic infraction pending at such time when an existing
54 administrative tribunal shall cease to exist shall be affected or abated
55 by the passage of this act or by anything herein contained or by the
56 cessation of the existence of any administrative tribunal. All such

1 proceedings are hereby transferred to the court of appropriate jurisdic-
2 tion in the city where such traffic infractions allegedly occurred.

3 (b)(i) The agency, department, office, or person charged with the
4 custody of the records of an existing administrative tribunal which is
5 about to cease existing under, or in connection with, this act shall
6 arrange for the transfer of the records of pending proceedings to the
7 court of appropriate jurisdiction to which the proceedings shall be
8 transferred. The presiding judge of such court shall enter an order
9 providing for adequate notice consistent with due process of law to
10 respondents in such pending proceedings regarding the transfer of such
11 proceedings.

12 (ii) In no event shall any difficulty or delay resulting from the
13 transfer process, not caused by the respondent, increase the penalty
14 required of the respondent appearing before the court due to a transfer
15 of the traffic infraction proceeding or otherwise prejudice such
16 respondent. Respondents before the court due to a transfer of the traf-
17 fic infraction proceeding from an administrative tribunal to the court
18 that fail to appear shall be permitted at least one adjournment before
19 the penalties and procedures pursuant to subdivision 3 of section 226 of
20 the vehicle and traffic law shall be available. The presiding judge of
21 such court shall enter an order providing for adequate notice consistent
22 with due process of law to respondents, including notice of the penal-
23 ties and procedures available pursuant to subdivision 3 of section 226
24 of the vehicle and traffic law.

25 S. 4. This act shall take effect immediately; provided, however, that
26 sections one and two of this act shall be deemed to have been in full
27 force and effect on and after June 1, 2012, and provided, further, that
28 effective immediately, the addition, amendment and/or repeal of any rule
29 or regulation necessary for the implementation of this act on its effec-
30 tive date is authorized and directed to be made and completed on or
31 before such effective date.