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

870--C

Cal. No. 1059

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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

AN ACT to amend the vehicle and traffic law, in relation to directing the city of Buffalo to adjudicate traffic infractions

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

Section 1. Section 155 of the vehicle and traffic law, as amended by chapter 628 of the laws of 2002, is amended to read as follows:

S 155. Traffic infraction. The violation of any provision of this chapter, except articles forty-seven and forty-eight, or of any law, ordinance, order, rule or regulation regulating traffic which is not declared by this chapter or other law of this state to be a misdemeanor or a felony. A traffic infraction is not a crime and the punishment imposed therefor shall not be deemed for any purpose a penal or criminal punishment and shall not affect or impair the credibility as a witness or otherwise of any person convicted thereof. This definition shall be retroactive and shall apply to all acts and violations heretofore committed where such acts and violations would, if committed subsequent to the taking effect of this section, be included within the meaning of

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

LBD04104-09-4

the term "traffic infraction" as herein defined. Except in those portions of Suffolk county for which a district court has been established, outside of cities having a population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administrative tribunals have heretofore been established AND OUTSIDE OF CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, courts and judicial officers heretofore having jurisdiction over such violations shall continue to do so and for such purpose such violations shall be deemed misdemeanors and all provisions of law relating to misdemeanors except as provided in section eighteen hundred five of this chapter and except as herein otherwise expressly provided shall apply except that no jury trial shall be allowed for traffic infractions. In those portions of Suffolk county for which a district court has been established, and in cities having a population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administrative tribunals have heretofore been established AND IN CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, the criminal courts of such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any complaint alleging a violation constituting a traffic infraction, except that administrative tribunals heretofore established in such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any charge of an offense which is a traffic infraction, except parking, standing or stopping. In cities having a population in excess of two hundred thousand in which administrative tribunals have heretofore been established, and any such administrative tribunal established by the city of Yonkers, the city of Peekskill, or the city of Syracuse, such tribunals shall have jurisdiction to hear and determine any charge of an offense which is a parking, standing or stopping violation. Any fine imposed by an administrative tribunal shall be a civil penalty. For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.

S 2. Subdivision 1 of section 225 of the vehicle and traffic law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

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

S 3. Pending actions and proceedings. (a) No proceeding involving a charge of a traffic infraction pending at such time when an existing administrative tribunal shall cease to exist shall be affected or abated by the passage of this act or by anything herein contained or by the cessation of the existence of any administrative tribunal. All such proceedings are hereby transferred to the court of appropriate jurisdiction in the city where such traffic infractions allegedly occurred.

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

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

S 4. This act shall take effect immediately.