

8006

2015-2016 Regular Sessions

I N A S S E M B L Y

June 4, 2015

Introduced by M. of A. WEPRIN -- read once and referred to the Committee
on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the adjudication of parking infractions

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

1 Section 1. Subdivision 6 of section 237 of the vehicle and traffic law
2 is amended by adding three new paragraphs (a), (b) and (c) to read as
3 follows:

4 (A) WHERE A TRANSCRIPT IS NOT PROVIDED TO A RESPONDENT WITHIN THIRTY
5 DAYS OF RESPONDENT'S REQUEST, MADE BY CERTIFIED MAIL, PERSONAL DELIVERY
6 OR WITH PROOF OF DELIVERY, THE BUREAU SHALL PROVIDE THE WRITTEN TRAN-
7 SCRIPT OR DISMISS THE TICKET AND PAY THE RESPONDENT OR THEIR REPRESENTATIVE A FEE OF ONE HUNDRED DOLLARS.

8 (B) WHERE A TRANSCRIPT IS NOT A COMPLETE AND ACCURATE RECORDING OF THE
9 HEARING, RESPONDENT'S TICKETS WILL BE DISMISSED AND THE COST OF THE
10 TRANSCRIPT SHALL BE REFUNDED.

11 (C) IT SHALL BE THE CLEAR DUTY OF THE BUREAU TO MAINTAIN AN UN-APPEND-
12 ED COPY OF THE ACTUAL TICKET - FRONT AND BACK. IN EACH INSTANCE WHERE A
13 RESPONDENT OR ITS REPRESENTATIVE IDENTIFIES A CHANGE IN AN OFFICIAL COPY
14 OF A NOTICE OF VIOLATION OR THE BUREAU FAILS TO MAINTAIN BOTH THE FRONT
15 AND THE BACK OF THE NOTICE OF VIOLATION, THE BUREAU SHALL BE REQUIRED TO
16 PAY THAT INDIVIDUAL A FEE OF NO LESS THAN ONE THOUSAND DOLLARS PER
17 INSTANCE;

18 S 2. Section 237 of the vehicle and traffic law is amended by adding a
19 new subdivision 15 to read as follows:

20 15. THERE SHALL BE NO CONVENIENCE FEE CHARGED BY A MUNICIPALITY OF
21 MORE THAN ONE MILLION PERSONS, AS DEFINED BY THE MOST RECENT CENSUS, FOR
22 THE PAYMENT OF A NOTICE OF VIOLATION.
23

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

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1 S 3. Paragraph (b) of subdivision 2 of section 238 of the vehicle and
2 traffic law is amended by adding two new subparagraphs (i) and (ii) to
3 read as follows:

4 (I) WHERE THERE IS A STARK DIFFERENCE IN THE COLOR OF A VEHICLE
5 RECORDED ON THE NOTICE OF VIOLATION WHEN COMPARED TO EITHER A BONA FIDE
6 PHOTOGRAPH OF THE VEHICLE OR THE VEHICLE REGISTRATION CERTIFICATE OR
7 OTHER COMPELLING EVIDENCE, IT SHALL RESULT IN DISMISSAL OF THE NOTICE OF
8 VIOLATION.

9 (II) WHERE THE YEAR OF THE VEHICLE APPEARS ON ANY STICKER OF A VEHICLE
10 BUT THE YEAR IS NOT STATED ON THE NOTICE OF VIOLATION THE NOTICE OF
11 VIOLATION SHALL BE DISMISSED.

12 S 4. Paragraph (a) of subdivision 2-a of section 238 of the vehicle
13 and traffic law, as added by chapter 224 of the laws of 1995, is amended
14 to read as follows:

15 (a) Notwithstanding any inconsistent provision of subdivision two of
16 this section, where the plate type or the expiration date are not shown
17 on either the registration plates or sticker of a vehicle or where the
18 registration sticker is covered, faded, defaced or mutilated so that it
19 is unreadable, the plate type or the expiration date may be omitted from
20 the notice of violation; provided, however, such condition must be so
21 described and inserted on the notice of violation. WHERE THE EXPIRATION
22 DATE OF THE VEHICLE INSPECTION IS NOT STATED ON A VEHICLE, THE ISSUING
23 OFFICER SHALL BE REQUIRED TO INSERT THE MONTH AND YEAR OF THE INSPECTION
24 AS STATED ON ANY STICKER ON THE VEHICLE OR THE NOTICE OF VIOLATION SHALL
25 BE DISMISSED.

26 S 5. Subdivision 2 of section 240 of the vehicle and traffic law is
27 amended by adding a new paragraph h to read as follows:

28 H. IN ALL HEARINGS DEFINED IN PARAGRAPH A OF THIS SUBDIVISION:

29 (I) RESPONDENT OR THEIR REPRESENTATIVE SHALL BE GRANTED NO LESS THAN
30 TEN FULL MINUTES TO ARGUE THEIR CASE IN FRONT OF AN ADMINISTRATIVE
31 TRIBUNAL AND GIVEN EVERY OPPORTUNITY TO PROVE THEIR INNOCENCE;

32 (II) RESPONDENT OR THEIR REPRESENTATIVE SHALL, AT THEIR OWN COST,
33 VIDEOTAPE, DIGITALLY RECORD OR OTHERWISE MAKE A LIVE RECORDING OF THE
34 HEARING;

35 (III) WHERE THERE IS NO HEARING OF A PARKING TICKET, WHETHER THE TICK-
36 ET IS PAID, REDUCED OR DISMISSED, THE NEW YORK STATE MANDATORY SURCHARGE
37 SHALL BE DUE AND PAYABLE;

38 (IV) A NOTICE OF VIOLATION MAY NOT BE REDUCED OR DISMISSED WITHOUT THE
39 EXPRESS WRITTEN DETERMINATION OF A HEARING EXAMINER;

40 (V) THE RESPONDENT OR THEIR REPRESENTATIVE SHALL BE GRANTED A SIXTY
41 DAY ADJOURNMENT TO RETURN AND ARGUE THEIR CASE;

42 (VI) RESPONDENT OR THEIR REPRESENTATIVE NEED ONLY FILE A NOT GUILTY
43 PLEA FOR ONE OR MORE TICKETS BY MAIL OR OTHER DELIVERY SERVICE; INCLUD-
44 ING, BUT NOT LIMITED TO AN IN PERSON FILING, A FILING BY FAX OR BY
45 EMAIL, OR ONLINE, TO RECORD THEIR NOT GUILTY PLEA. NO ADDITIONAL DOCU-
46 MENTS, PROCESS OR PROCESSES ARE REQUIRED, REGARDLESS OF THE VENUE OR THE
47 RESPONDENT;

48 (VII) HEARING EXAMINERS SHALL BE APPOINTED BY THE CITY COUNCIL;

49 (VIII) APPEALS OF HEARING DETERMINATIONS MAY BE SUBMITTED ONLINE WITH
50 ALL EVIDENCE THAT RESPONDENT WISHES TO ENTER INTO THE RECORD;

51 (IX) THERE SHALL BE AMPLE ONLINE STORAGE CAPACITY FOR RESPONDENT OR
52 THEIR REPRESENTATIVE TO UPLOAD ALL OF THEIR EVIDENCE;

53 (X) THE BUREAU SHALL PROVIDE AN ONLINE ABILITY TO LOOK UP ALL OPEN
54 TICKETS BY LICENSE PLATE NUMBER AND IS PRECLUDED FROM USING J-CAPTCHA OR
55 ANY OTHER TECHNOLOGY THAT WILL SLOW DOWN OR BLOCK THE ABILITY FOR A
56 RESPONDENT OR THEIR REPRESENTATIVE TO LOOK UP OPEN PARKING TICKETS BY

LICENSE PLATE, TO FILE A NOT GUILTY PLEA OR TO ADJUDICATE OR PAY A NOTICE OF VIOLATION;

(XI) THE BUREAU SHALL MAINTAIN A COURT CALENDAR AND ALLOW THE PUBLIC TO SCHEDULE APPOINTMENTS FOR LIVE HEARINGS. NYS VTL S 240(1). THE BUREAU SHALL ADVISE SUCH PERSON PERSONALLY BY SUCH FORM OF FIRST CLASS MAIL AS THE DIRECTOR MAY DIRECT OF THE DATE ON WHICH HE OR SHE MUST APPEAR TO ANSWER THE CHARGE AT A HEARING. THE FORM AND CONTENT OF SUCH NOTICE OF HEARING SHALL BE PRESCRIBED BY THE DIRECTOR, AND SHALL CONTAIN A WARNING TO ADVISE THE PERSON SO PLEADING THAT FAILURE TO APPEAR ON THE DATE DESIGNATED, OR ON ANY SUBSEQUENT ADJOURNED DATE, SHALL BE DEEMED AN ADMISSION OF LIABILITY, AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON;

(XII) THE HEARING EXAMINER SHALL WRITE OUT THEIR DETERMINATION AND THE ACTUAL BASIS IN LAW FOR THEIR PARTICULAR RATIONALE FOR A GUILTY OR NOT GUILTY DECISION, SO RESPONDENTS ARE FULLY INFORMED AS TO THE BASIS FOR THE UNDERLYING DECISION;

(XIII) WHERE THE RESPONDENT OFFERS OTHER PARKING TICKETS, OTHER THAN THE ONE BEING CHALLENGED, THAT CONTAINS EVIDENCE THAT INFORMATION IS AVAILABLE TO THE ISSUING OFFICER, THE TICKET SHALL BE DISMISSED OR THE BUREAU SHALL ADJOURN THE HEARING AND SUBPOENA EACH OF THE OFFICERS WHO WROTE EACH OF THE RELATED TICKETS PRESENTED AT THE HEARING TO LEARN WHY ONE OR MORE AGENTS WERE ABLE TO RECORD INFORMATION CORRECTLY BUT THE OTHER(S) WERE NOT;

(XVI) WHERE THE BUREAU CANNOT PROVIDE BOTH THE FRONT AND THE BACK OF THE TICKET, THE TICKET SHALL BE DISMISSED.

FOR PURPOSES OF THIS PARAGRAPH THE BUREAU SHALL BE DEFINED AS THE AGENCY OR ARM OF THE GOVERNMENT WHICH IS OR BECOMES THE ADJUDICATION TRIBUNAL FOR PARKING TICKETS.

S 6. The opening paragraph of section 243 of the vehicle and traffic law is designated subdivision 1 and two new subdivisions 2 and 3 are added to read as follows:

2. WHERE AN INDIVIDUAL HAS BROUGHT, OR BRINGS AN ARTICLE SEVENTY-EIGHT PROCEEDING AND, AS A RESULT OF THAT LITIGATION OR OTHER RELATED LITIGATION, THE UNDERLYING TICKET IS DISMISSED, WITH OR WITHOUT PREJUDICE, THE BUREAU SHALL PAY ALL COURT AND LEGAL EXPENSES OF SUCH ACTIONS.

3. AS THE CIVIL PRACTICE LAW AND RULES (CPLR) REQUIRES THAT AN AGGRIEVED INDIVIDUAL MUST FILE AN ARTICLE SEVENTY-EIGHT PROCEEDING WITHIN ONE HUNDRED TWENTY DAYS OF THE AGENCY'S FINAL DETERMINATION, EACH SIMILAR COMPLAINT CAN BE ADDED TO THE ORIGINAL ACTION AND A NEW CASE NEED NOT BE FILED.

S 7. This act shall take effect immediately.