

STATE OF NEW YORK

2197

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the vehicle and traffic law, in relation to establishing an independent traffic violations bureau

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title II of the vehicle and traffic law is amended by adding a new article 3-B to read as follows:

ARTICLE 3-B

TRAFFIC VIOLATIONS BUREAU

Section 280. Statement of purpose.

281. Definitions.

282. Traffic violations bureau; organization.

283. Functions, powers and duties.

284. Administrative adjudication of traffic violations.

§ 280. Statement of purpose. This article is enacted to establish a traffic violations bureau independent from the department of motor vehicles which shall be responsible for providing the public with a just system of adjudicating serious traffic violations and other administrative proceedings arising under the provisions of this chapter and to ensure that the elements of due process are present with regard to such adjudications.

§ 281. Definitions. As used in this article:

1. "Office" shall mean the traffic violations bureau as created in section two hundred eighty-two of this article.

2. "Director" shall mean the director of the traffic violations bureau.

3. "Adjudicatory proceeding" means hearings pursuant to article two-A of this title.

4. "Hearing officer" means a person appointed by the director to conduct and preside over contested adjudicatory proceedings in accordance with this article.

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

LBD00297-01-9

1 § 282. Traffic violations bureau; organization. 1. There shall be a
2 separate and independent traffic violations bureau to implement the
3 provisions of article two-A of this title and to be operated and admin-
4 istered as provided in this article consistent therewith. The powers,
5 functions, duties and obligations of the office shall be separate from
6 and independent of the authority of the commissioner of motor vehicles.

7 2. The head of the office shall be the director of the traffic
8 violations bureau who shall be appointed by the governor, by and with
9 the advice and consent of the senate, and shall hold office until the
10 end of the term of the appointing governor and until a qualified succes-
11 sor is appointed. The director shall receive an annual salary within
12 the amount appropriated therefor. No person shall be appointed director
13 unless at the time of his or her appointment he or she is knowledgeable
14 on the subject of administrative adjudication and has been admitted to
15 practice as an attorney at law in this state for at least ten years. The
16 director shall have the immediate charge of the office. The director may
17 appoint, and at pleasure remove, such deputy directors, administrative
18 law judges, other assistants and employees of the office as are deemed
19 necessary. The director and all other officers and employees of the
20 office shall be paid and allowed their necessary, actual and reasonable
21 expenses incurred in the exercise of their duties. All salaries and
22 expenses of the office shall be paid out of the state treasury on the
23 audit and warrant of the comptroller on the certificate of the office.
24 The principal office shall be in the city of Albany and there shall be
25 one or more offices in each jurisdiction as necessary to carry out the
26 provisions of article two-A of this title and other administrative adju-
27 dications responsibilities under this chapter.

28 § 283. Functions, powers and duties. The director shall have the
29 following functions, powers and duties:

30 1. To establish, consolidate, alter or abolish any departments in the
31 bureau and to appoint the head of such departments and fix their duties;

32 2. Subject to the civil service law and the applicable collective
33 bargaining agreements, to appoint, remove or transfer deputies, offi-
34 cers, assistants, hearing officers, counsels and other employees as may
35 be necessary for the exercise of powers and performance of the duties of
36 the bureau and to prescribe their duties, and fix their compensation
37 within the amounts appropriated therefor;

38 3. When regularly appointed hearing officers are not available, the
39 director, pursuant to the applicable collective bargaining agreements,
40 may contract with qualified individuals to serve as hearing officers
41 provided that temporary hearing officers shall have the same qualifica-
42 tions for appointment as permanent hearing officers;

43 4. To develop and implement a program of evaluation to aid the direc-
44 tor in the performance of his or her duties. The director shall develop
45 standards and procedures which shall include taking comments from
46 selected litigants and representatives before a hearing officer;
47 provided however that the director's authority pursuant to this subdivi-
48 sion is subject to the provisions of the civil service law and applica-
49 ble collective bargaining agreements;

50 5. To the extent permitted by law, to publish and make available to
51 the public all recommended decisions rendered by a hearing officer;

52 6. To adopt, promulgate, amend and rescind rules and regulations to
53 carry out the provisions of this article. Such regulations shall super-
54 sede any inconsistent department rules; and

55 7. To submit to the governor, the temporary president and minority
56 leader of the senate and the speaker and minority leader of the assembly

1 an evaluation of the effectiveness of the bureau in attaining the objec-
2 tives of this article prepared by an independent entity. Such evaluation
3 shall be submitted by November thirtieth of the second year following
4 the effective date of this section and by September first every two
5 years thereafter.

6 § 284. Administrative adjudication of traffic violations. The bureau
7 shall be vested with exclusive jurisdiction over all cases that may be
8 heard and determined pursuant to the provisions of section two hundred
9 twenty-five of this title.

10 § 2. Subdivisions 2 and 3 of section 225 of the vehicle and traffic
11 law, subdivision 2 as amended by chapter 196 of the laws of 1972, and
12 subdivision 3 as amended by chapter 682 of the laws of 1970, are amended
13 to read as follows:

14 2. Whenever [~~the commissioner or his deputy~~] the director of the traf-
15 fic violations bureau determines that a charge alleges an offense other
16 than a traffic infraction, he or she shall, and where a charge cannot be
17 disposed of because of the non-appearance of the motorist, he or she may
18 notify the court of appropriate jurisdiction and request removal of the
19 case to such court. Prior notice of such request need not be given the
20 motorist involved. Upon receipt of such request, the court may grant an
21 order transferring such case, provided that the date on which the charge
22 or charges must be answered before the court shall not be earlier than
23 the return date which appears on the complaint alleging the offense.
24 Notice of transfer of cases involving other than traffic infractions
25 shall be mailed to the motorist at the address appearing on such
26 complaint not less than ten days before the date of appearance indicated
27 on his or her summons and not less than fifteen days before his or her
28 scheduled appearance in such court. Notice of transfer of cases which
29 cannot be disposed of because of the non-appearance of the motorist
30 shall be mailed to the motorist at the address appearing on such
31 complaint not less than fifteen days before his or her scheduled appear-
32 ance in such court. Such mailing shall constitute due notice of such
33 transfer. Thereafter, such case shall be treated in the same manner as
34 if the complaint had initially been filed with such court.

35 3. The commissioner [~~shall appoint such hearing officers as shall be~~
36 ~~necessary to hear and determine cases as provided by this article and~~]
37 may promulgate [~~such~~] regulations [~~as shall be necessary or desirable to~~
38 ~~effect the purposes of this article. Such regulations may~~] to provide
39 for a schedule of monetary penalties to be used where an answer is made,
40 other than before a hearing officer, admitting a charge, provided that
41 no such penalty shall exceed the maximum fine established by law for the
42 traffic infraction involved.

43 § 3. Subdivision 1 of section 225 of the vehicle and traffic law, as
44 amended by chapter 157 of the laws of 2017, is amended to read as
45 follows:

46 1. Notwithstanding any inconsistent provision of law, all violations
47 of this chapter or of a law, ordinance, order, rule or regulation relat-
48 ing to traffic, except parking, standing, stopping or pedestrian
49 offenses, which occur within a city having a population of one million
50 or more in which administrative tribunals have heretofore, been estab-
51 lished, and which are classified as traffic infractions, may be heard
52 and determined pursuant to the regulations of the [~~commissioner~~] direc-
53 tor of the traffic violations bureau as provided in [~~this~~] article
54 three-B of this title. Whenever a crime and a traffic infraction arise
55 out of the same transaction or occurrence, a charge alleging both
56 offenses may be made returnable before the court having jurisdiction

1 over the crime. Nothing herein provided shall be construed to prevent a
2 court, having jurisdiction over a criminal charge relating to traffic or
3 a traffic infraction, from lawfully entering a judgment of conviction,
4 whether or not based on a plea of guilty, for any offense classified as
5 a traffic infraction.

6 § 4. Codification of changes. Within nine months of the effective date
7 of this section, the commissioner of motor vehicles shall prepare and
8 submit to the governor, the temporary president and minority leader of
9 the senate, and the speaker and minority leader of the assembly a
10 proposed codification of changes in law necessary and appropriate to
11 carry out the purposes and provisions of article 3-B of the vehicle and
12 traffic law as added by section one of this act. Such changes shall
13 include provisions for transition of personnel and cases to the traffic
14 violations bureau.

15 § 5. This act shall take effect on the first of January next succeed-
16 ing the date on which it shall have become a law.