

STATE OF NEW YORK

6686

2023-2024 Regular Sessions

IN ASSEMBLY

May 1, 2023

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

AN ACT to amend the vehicle and traffic law and the public officers law,
in relation to owner liability for failure of operator to comply with
traffic-control indications in the city of Syracuse; and providing for
the repeal of such provisions upon expiration thereof

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

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 1111-g to read as follows:

3 § 1111-g. Owner liability for failure of operator to comply with
4 traffic-control indications. (a) 1. Notwithstanding any other provision
5 of law, the city of Syracuse is hereby authorized and empowered to adopt
6 and amend a local law or ordinance establishing a demonstration program
7 imposing monetary liability on the owner of a vehicle for failure of an
8 operator thereof to comply with traffic-control indications in such city
9 in accordance with the provisions of this section. Such demonstration
10 program shall empower such city to install and operate traffic-control
11 signal photo violation-monitoring devices at no more than thirty-six
12 intersections within such city at any one time.

13 2. Such demonstration program shall utilize necessary technologies to
14 ensure, to the extent practicable, that photographs produced by such
15 traffic-control signal photo violation-monitoring systems shall not
16 include images that identify the driver, the passengers, or the contents
17 of the vehicle. Provided, however, that no notice of liability issued
18 pursuant to this section shall be dismissed solely because a photograph
19 or photographs allow for the identification of the contents of a vehi-
20 cle, provided that such city has made a reasonable effort to comply with
21 the provisions of this paragraph.

22 (b) In any such city which has adopted a local law or ordinance pursu-
23 ant to subdivision (a) of this section, the owner of a vehicle shall be

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

LBD11105-01-3

1 liable for a penalty imposed pursuant to this section if such vehicle
2 was used or operated with the permission of the owner, express or
3 implied, in violation of subdivision (d) of section eleven hundred elev-
4 en of this article, and such violation is evidenced by information
5 obtained from a traffic-control signal photo violation-monitoring
6 system; provided however that no owner of a vehicle shall be liable for
7 a penalty imposed pursuant to this section where the operator of such
8 vehicle has been convicted of the underlying violation of subdivision
9 (d) of section eleven hundred eleven of this article.

10 (c) For purposes of this section, "owner" shall have the meaning
11 provided in article two-B of this chapter. For purposes of this section,
12 "traffic-control signal photo violation-monitoring system" shall mean a
13 vehicle sensor installed to work in conjunction with a traffic-control
14 signal which automatically produces two or more photographs, two or more
15 microphotographs, a videotape or other recorded images of each vehicle
16 at the time it is used or operated in violation of subdivision (d) of
17 section eleven hundred eleven of this article.

18 (d) A certificate, sworn to or affirmed by a technician employed by
19 the city of Syracuse in which the charged violation occurred, or a
20 facsimile thereof, based upon inspection of photographs, microphoto-
21 graphs, videotape or other recorded images produced by a traffic-
22 control signal photo violation-monitoring system, shall be prima facie
23 evidence of the facts contained therein. Any photographs, microphoto-
24 graphs, videotape or other recorded images evidencing such a violation
25 shall be available for inspection in any proceeding to adjudicate the
26 liability for such violation pursuant to a local law or ordinance
27 adopted pursuant to this section.

28 (e) An owner liable for a violation of subdivision (d) of section
29 eleven hundred eleven of this article pursuant to a local law or ordi-
30 nance adopted pursuant to this section shall be liable for monetary
31 penalties in accordance with a schedule of fines and penalties to be set
32 forth in such local law or ordinance, except that if such city by local
33 law has authorized the adjudication of such owner liability by a parking
34 violations bureau, such schedule shall be promulgated by such bureau.
35 The liability of the owner pursuant to this section shall not exceed
36 fifty dollars for each violation; provided, however, that such local law
37 or ordinance may provide for an additional penalty not in excess of
38 twenty-five dollars for each violation for the failure to respond to a
39 notice of liability within the prescribed time period.

40 (f) An imposition of liability under a local law or ordinance adopted
41 pursuant to this section shall not be deemed a conviction as an operator
42 and shall not be made part of the operating record of the person upon
43 whom such liability is imposed nor shall it be used for insurance
44 purposes in the provision of motor vehicle insurance coverage.

45 (g) 1. A notice of liability shall be sent by first class mail to each
46 person alleged to be liable as an owner for a violation of subdivision
47 (d) of section eleven hundred eleven of this article pursuant to this
48 section. Personal delivery on the owner shall not be required. A manual
49 or automatic record of mailing prepared in the ordinary course of busi-
50 ness shall be prima facie evidence of the facts contained therein.

51 2. A notice of liability shall contain the name and address of the
52 person alleged to be liable as an owner for a violation of subdivision
53 (d) of section eleven hundred eleven of this article pursuant to this
54 section, the registration number of the vehicle involved in such
55 violation, the location where such violation took place, the date and

1 time of such violation and the identification number of the camera which
2 recorded the violation or other document locator number.

3 3. The notice of liability shall contain information advising the
4 person charged of the manner and the time in which he or she may contest
5 the liability alleged in the notice. Such notice of liability shall also
6 contain a warning to advise the persons charged that failure to contest
7 in the manner and time provided shall be deemed an admission of liabil-
8 ity and that a default judgment may be entered thereon.

9 4. The notice of liability shall be prepared and mailed by the city of
10 Syracuse, or by any other entity authorized by such city to prepare and
11 mail such notification of violation.

12 (h) Adjudication of the liability imposed upon owners by this section
13 shall be by a traffic violations bureau established pursuant to section
14 three hundred seventy of the general municipal law or, if there be none,
15 by the court having jurisdiction over traffic infractions, except that
16 if such city has established an administrative tribunal to hear and
17 determine complaints of traffic infractions constituting parking, stand-
18 ing or stopping violations such city may, by local law, authorize such
19 adjudication by such tribunal.

20 (i) If an owner receives a notice of liability pursuant to this
21 section for any time period during which the vehicle was reported to the
22 police department as having been stolen, it shall be a valid defense to
23 an allegation of liability for a violation of subdivision (d) of section
24 eleven hundred eleven of this article pursuant to this section that the
25 vehicle had been reported to the police as stolen prior to the time the
26 violation occurred and had not been recovered by such time. For purposes
27 of asserting the defense provided by this subdivision it shall be suffi-
28 cient that a certified copy of the police report on the stolen vehicle
29 be sent by first class mail to the traffic violations bureau, court
30 having jurisdiction or parking violations bureau.

31 (j) 1. In such city where the adjudication of liability imposed upon
32 owners pursuant to this section is by a traffic violations bureau or a
33 court having jurisdiction, an owner who is a lessor of a vehicle to
34 which a notice of liability was issued pursuant to subdivision (g) of
35 this section shall not be liable for the violation of subdivision (d) of
36 section eleven hundred eleven of this article, provided that he or she
37 sends to the traffic violations bureau or court having jurisdiction a
38 copy of the rental, lease or other such contract document covering such
39 vehicle on the date of the violation, with the name and address of the
40 lessee clearly legible, within thirty-seven days after receiving notice
41 from the bureau or court of the date and time of such violation, togeth-
42 er with the other information contained in the original notice of
43 liability. Failure to send such information within such thirty-seven
44 day time period shall render the owner liable for the penalty prescribed
45 by this section. Where the lessor complies with the provisions of this
46 paragraph, the lessee of such vehicle on the date of such violation
47 shall be deemed to be the owner of such vehicle for purposes of this
48 section, shall be subject to liability for the violation of subdivision
49 (d) of section eleven hundred eleven of this article pursuant to this
50 section and shall be sent a notice of liability pursuant to subdivision
51 (g) of this section.

52 2. a. In such city which, by local law, has authorized the adjudi-
53 cation of liability imposed upon owners by this section by a parking
54 violations bureau, an owner who is a lessor of a vehicle to which a
55 notice of liability was issued pursuant to subdivision (g) of this

section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

b. Failure to comply with clause (B) of subparagraph a of this paragraph shall render the owner liable for the penalty prescribed in this section.

c. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a traffic-control indication. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a traffic-control indication.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.

(m) Any city that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before the first day of June next succeeding the effective date of this section and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been opera-

1 tional, to the extent the information is maintained by the department of
2 motor vehicles of this state;

3 4. the number of events and number of violations recorded at each
4 intersection where a traffic-control signal photo violation-monitoring
5 system is used and in the aggregate on a daily, weekly and monthly
6 basis;

7 5. the number of notices of liability issued for violations recorded
8 by such system at each intersection where a traffic-control signal photo
9 violation-monitoring system is used;

10 6. the number of fines imposed and total amount of fines paid after
11 first notice of liability issued for violations recorded by such
12 systems;

13 7. the number and percentage of violations adjudicated and results of
14 such adjudications including breakdowns of dispositions made for
15 violations recorded by such systems;

16 8. the total amount of revenue realized by such city from such adjudi-
17 cations including a breakdown of revenue realized by such city for each
18 year since deployment of its traffic-control signal photo violation-mon-
19 itoring system;

20 9. expenses incurred by such city in connection with the program; and

21 10. quality of the adjudication process and its results.

22 (n) It shall be a defense to any prosecution for a violation of subdi-
23 vision (d) of section eleven hundred eleven of this article pursuant to
24 a local law or ordinance adopted pursuant to this section that such
25 traffic-control indications were malfunctioning at the time of the
26 alleged violation.

27 § 2. Subdivision 2 of section 87 of the public officers law is amended
28 by adding a new paragraph (s) to read as follows:

29 (s) are photographs, microphotographs, videotape or other recorded
30 images prepared under authority of section eleven hundred eleven-g of
31 the vehicle and traffic law.

32 § 3. The purchase or lease of equipment for a demonstration program
33 established pursuant to section 1111-g of the vehicle and traffic law
34 shall be subject to the provisions of section 103 of the general munic-
35 pal law.

36 § 4. This act shall take effect on the thirtieth day after it shall
37 have become a law and shall expire 5 years after such effective date
38 when upon such date the provisions of this act shall be deemed repealed.
39 Effective immediately, the addition, amendment and/or repeal of any rule
40 or regulation necessary for the implementation of this act on its effec-
41 tive date are authorized to be made and completed on or before such
42 effective date.