

STATE OF NEW YORK

8960--B

IN ASSEMBLY

January 30, 2024

Introduced by M. of A. SHIMSKY -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to adjudications and owner liability for a violation of traffic-control signal indications in the town of Greenburgh; to amend the public officers law, in relation to accessing records; and providing for the repeal of certain provisions upon expiration thereof

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

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

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

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

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

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

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

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

30 (e) An owner liable for a violation of subdivision (d) of section
31 eleven hundred eleven of this article pursuant to a local law or ordi-
32 nance adopted pursuant to this section shall be liable for monetary
33 penalties in accordance with a schedule of fines and penalties to be set
34 forth in such local law or ordinance. The liability of the owner pursu-
35 ant to this section shall not exceed fifty dollars for each violation;
36 provided, however, that such local law or ordinance may provide for an
37 additional penalty not in excess of twenty-five dollars for each
38 violation for the failure to respond to a notice of liability within the
39 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 town of
10 Greenburgh, or by any other entity authorized by such town to prepare
11 and 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.

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

27 (j) An owner who is a lessor of a vehicle to which a notice of liabil-
28 ity was issued pursuant to subdivision (g) of this section shall not be
29 liable for the violation of subdivision (d) of section eleven hundred
30 eleven of this article, provided that he or she sends to the traffic
31 violations bureau or court having jurisdiction a copy of the rental,
32 lease or other such contract document covering such vehicle on the date
33 of the violation, with the name and address of the lessee clearly legi-
34 ble, within thirty-seven days after receiving notice from the traffic
35 violations bureau or court of the date and time of such violation,
36 together with the other information contained in the original notice of
37 liability. Failure to send such information within such thirty-seven day
38 time period shall render the owner liable for the penalty prescribed by
39 this section. Where the lessor complies with the provisions of this
40 subdivision, the lessee of such vehicle on the date of such violation
41 shall be deemed to be the owner of such vehicle for purposes of this
42 section, shall be subject to liability for the violation of subdivision
43 (d) of section eleven hundred eleven of this article pursuant to this
44 section and shall be sent a notice of liability pursuant to subdivision
45 (g) of this section.

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

50 2. Notwithstanding any other provision of this section, no owner of a
51 vehicle shall be subject to a monetary fine imposed pursuant to this
52 section if the operator of such vehicle was operating such vehicle with-
53 out the consent of the owner at the time such operator failed to obey a
54 traffic-control indication. For purposes of this subdivision there shall
55 be a presumption that the operator of such vehicle was operating such

1 vehicle with the consent of the owner at the time such operator failed
2 to obey a traffic-control indication.

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

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

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

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

20 3. the aggregate number, type and severity of accidents reported at
21 intersections where a traffic-control signal photo violation-monitoring
22 system is used for the reporting year, as well as for each year that the
23 traffic-control signal photo violation-monitoring system has been opera-
24 tional, to the extent the information is maintained by the department;

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

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

32 6. the number of fines imposed and total amount of fines paid after
33 first notice of liability issued for violations recorded by such
34 systems;

35 7. the number and percentage of violations adjudicated and results of
36 such adjudications including breakdowns of dispositions made for
37 violations recorded by such systems;

38 8. the total amount of revenue realized by such town from such adjudi-
39 cations including a breakdown of revenue realized by such town for each
40 year since deployment of its traffic-control signal photo violation-mon-
41 itoring system;

42 9. expenses incurred by such town in connection with the program; and

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

44 (n) It shall be a defense to any prosecution for a violation of subdivi-
45 vision (d) of section eleven hundred eleven of this article pursuant to
46 a local law or ordinance adopted pursuant to this section that such
47 traffic-control indications were malfunctioning at the time of the
48 alleged violation.

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

51 (u) are photographs, microphotographs, videotape or other recorded
52 images prepared under authority of section eleven hundred eleven-h of
53 the vehicle and traffic law.

54 § 3. The purchase or lease of equipment for a demonstration program
55 established pursuant to section 1111-h of the vehicle and traffic law

1 shall be subject to the provisions of section 103 of the general municipi-
2 pal law.
3 § 4. This act shall take effect on the thirtieth day after it shall
4 have become a law and shall expire December 1, 2029, when upon such date
5 the provisions of this act shall be deemed repealed; provided, however,
6 that any such local law as may be enacted pursuant to section one of
7 this act shall remain in full force and effect only until December 1,
8 2029. Effective immediately, the addition, amendment and/or repeal of
9 any rule or regulation necessary for the implementation of this act on
10 its effective date are authorized to be made and completed on or before
11 such effective date.