

STATE OF NEW YORK

7064

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to owner liability for failure of an operator to comply with stop signs in villages located within the county of Nassau

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

1 Section 1. This act shall be known and may be cited as the "protect
2 our pedestrians (POP) act".

3 § 2. The vehicle and traffic law is amended by adding a new section
4 1174-b to read as follows:

5 § 1174-b. Owner liability for failure of operator to stop for a stop
6 sign in a village located within the county of Nassau. (a) Notwithstand-
7 ing any other provision of law, any village located within the county of
8 Nassau is hereby authorized and empowered to adopt and amend a local law
9 or ordinance establishing a demonstration program imposing monetary
10 liability on the owner of a vehicle for failure of an operator thereof
11 to comply with subdivision (a) of section eleven hundred seventy-two of
12 this article. Such demonstration program shall empower such village to
13 install and operate stop sign photo violation monitoring systems which
14 may be stationary or mobile, and which may be installed on stop signs
15 within the boundaries of such village.

16 (b) Such demonstration program shall utilize necessary technologies to
17 ensure, to the extent practicable, that photographs produced by such
18 stop sign photo violation monitoring systems shall not include images
19 that identify the driver, the passengers, or the contents of the vehi-
20 cle. Provided, however, that no notice of liability issued pursuant to
21 this section shall be dismissed solely because a photograph or photo-
22 graphs allow for the identification of the driver, passengers, or the
23 contents of a vehicle, provided that such village has made a reasonable
24 effort to comply with 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 (c) In any such village which has adopted a local law or ordinance
2 pursuant to subdivision (a) of this section, the owner of a vehicle
3 shall be liable for a penalty imposed pursuant to this section if such
4 vehicle was used or operated with the permission of the owner, express
5 or implied, in violation of subdivision (a) of section eleven hundred
6 seventy-two of this article, and such violation is evidenced by informa-
7 tion obtained from a stop sign photo violation monitoring system.

8 (d) For purposes of this section, the following terms shall have the
9 following meanings:

10 1. "Owner" shall have the meaning as defined pursuant to section two
11 hundred thirty-nine of this chapter.

12 2. "Stop sign photo violation monitoring system" shall mean a vehicle
13 sensor installed to work in conjunction with a stop sign which automat-
14 ically produces two or more photographs, two or more microphotographs, a
15 videotape or other recorded images of each vehicle at the time it is
16 used or operated in violation of subdivision (a) of section eleven
17 hundred seventy-two of this article.

18 3. "Operator" means any person, corporation, firm, partnership, agen-
19 cy, association, organization or lessee that uses or operates a vehicle
20 with or without the permission of the owner, and an owner who operates
21 his or her own vehicle.

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

31 (f) An owner liable for a violation of subdivision (a) of section
32 eleven hundred seventy-two of this article pursuant to a local law or
33 ordinance adopted pursuant to this section shall be liable for monetary
34 penalties in accordance with a schedule of fines and penalties to be set
35 forth in such local law or ordinance. The liability of the owner pursu-
36 ant to this section shall not exceed fifty dollars for each violation;
37 provided, however, that such local law or ordinance may provide for an
38 additional penalty not in excess of twenty-five dollars for each
39 violation for the failure to respond to a notice of liability within the
40 prescribed time period.

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

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

52 2. A notice of liability shall contain the name and address of the
53 person alleged to be liable as an owner for a violation of subdivision
54 (a) of section eleven hundred seventy-two of this article pursuant to
55 this section, the registration number of the vehicle involved in such
56 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 village
10 where the alleged violation occurred or by any other entity authorized
11 by such village to prepare and mail such notification of violation.

12 (i) Adjudication of the liability imposed upon owners by this section
13 shall be by the court having jurisdiction over traffic infractions.

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

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

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

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

1 (m) Nothing in this section shall be construed to limit the liability
2 of an operator of a vehicle for any violation of subdivision (a) of
3 section eleven hundred seventy-two of this article.

4 (n) Any village that adopts a demonstration program pursuant to subdi-
5 vision (a) of this section shall submit an annual report detailing the
6 results of the use of such stop sign photo violation monitoring system
7 to the governor, the temporary president of the senate and the speaker
8 of the assembly on or before the first day of June next succeeding the
9 effective date of this section and on the same date in each succeeding
10 year in which the demonstration program is operable. Such report shall
11 include, but not be limited to:

12 1. a description of the locations where stop sign photo violation
13 monitoring systems were used;

14 2. the aggregate number, type and severity of accidents reported at
15 intersections where a stop sign photo violation monitoring system is
16 used for the three years preceding the installation of such system, to
17 the extent the information is maintained by the department;

18 3. the aggregate number, type and severity of accidents reported at
19 intersections where a stop sign photo violation monitoring system is
20 used for the reporting year, as well as for each year that the stop sign
21 photo violation monitoring system has been operational, to the extent
22 the information is maintained by the department;

23 4. the number of events and number of violations recorded at each
24 intersection where a stop sign photo violation monitoring system is used
25 and in the aggregate on a daily, weekly and monthly basis;

26 5. the number of notices of liability issued for violations recorded
27 by such system at each intersection where a stop sign photo violation
28 monitoring system is used;

29 6. the number of fines imposed and total amount of fines paid after
30 first notice of liability;

31 7. the number and percentage of violations adjudicated and results of
32 such adjudications including breakdowns of dispositions made for
33 violations recorded by such systems which shall be provided at least
34 annually to such village by the respective courts and bureaus conducting
35 such adjudications;

36 8. the total amount of revenue realized by such village from such
37 adjudications including a breakdown of revenue realized by such village
38 for each year since deployment of its stop sign photo violation monitor-
39 ing system;

40 9. expenses incurred by such village in connection with the program;
41 and

42 10. quality of the adjudication process and its results which shall be
43 provided at least annually to such village by the respective courts
44 conducting such adjudications.

45 § 3. This act shall take effect on the ninetieth day after it shall
46 have become a law.