S T A T E O F N E W Y O R K

4564

2009-2010 Regular Sessions

I N A S S E M B L Y

February 5, 2009

Introduced by M. of A. MAYERSOHN, RAMOS -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, HOOPER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the insurance law, the state finance law and the vehicle and traffic law, in relation to enacting the Omnibus Auto Theft Victim Protection Act

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

Section 1. Short title. This act shall be known and may be cited as, the "Omnibus Auto Theft Victim Protection Act."

S 2. Legislative findings. The legislature finds that a motor vehicle theft crisis exists in New York state. Every consumer in New York pays the staggering cost of this crisis through higher prices and insurance premiums.

The legislature further finds that outside review of the handling of motor vehicle theft cases by the courts, citizens, crime victims, and consumers is necessary to ensure that the police, prosecutors, and the court system treat cases of motor vehicle theft as serious felonies. The legislature declares that a compelling public interest exists to protect the victims of car theft from the imposition of insurance surcharges and policy cancellations. It is the policy of this state to promote citizen involvement in deterring motor vehicle theft and apprehending those responsible by establishing a toll-free hotline to provide police with information needed to combat auto theft.

Public education, the use of theft prevention measures, and new consumer protections are all needed as part of a comprehensive plan to reduce automobile theft.

S 3. The executive law is amended by adding a new section 231 to read as follows:

S 231. AUTO THEFT REWARD PROGRAM; ESTABLISHMENT. 1. THE SUPERINTENDENT SHALL ESTABLISH A STATEWIDE AUTO THEFT REWARD PROGRAM TO PAY REWARDS FOR

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

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INFORMATION LEADING TO THE ARREST AND CONVICTION OF PERSONS GUILTY OF LARCENY AS DEFINED IN ARTICLE ONE HUNDRED FIFTY-FIVE OF THE PENAL LAW OF A "VEHICLE" AS DEFINED IN SECTION 10.00 OF THE PENAL LAW.

2. THE SUPERINTENDENT SHALL CAUSE TO BE ESTABLISHED A TOLL-FREE STATE-WIDE TELEPHONE NUMBER FOR USE IN COLLECTING INFORMATION TO ASSIST IN THE INVESTIGATION AND PROSECUTION OF MOTOR VEHICLE THEFT CRIMES.

3. THE SUPERINTENDENT IS AUTHORIZED TO PROVIDE REWARDS OF UP TO ONE THOUSAND DOLLARS FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF INDIVIDUALS GUILTY OF LARCENY AS DEFINED IN ARTICLE ONE HUNDRED FIFTY-FIVE OF THE PENAL LAW OF A "VEHICLE" AS DEFINED IN SECTION 10.00 OF THE PENAL LAW.

4. THE SUPERINTENDENT IS AUTHORIZED TO PROVIDE REWARDS OF UP TO FIVE THOUSAND DOLLARS FOR INFORMATION LEADING TO THE ARREST AND CONVICTION OF INDIVIDUALS GUILTY OF A SPECIFIED OFFENSE IN THE PENAL LAW.

S 4. The executive law is amended by adding a new section 232 to read as follows:

S 232. CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION. 1. INFORMATION REGARDING A SINGLE, STATEWIDE NON-PROFIT CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION, TO BE CALLED PEOPLE AGAINST CAR THEFT (PACT), THAT IS CERTIFIED BY THE CHAIRPERSON OF THE CRIME VICTIMS BOARD PURSUANT TO PROCEDURES ESTABLISHED BY THE CHAIRPERSON AS A SINGLE STATEWIDE ENTITY REPRESENTING THE INTERESTS OF MOTOR VEHICLE CONSUMERS AND MOTOR VEHICLE THEFT VICTIMS, SHALL BE DISTRIBUTED BY EVERY LOCAL POLICE AGENCY UNDER THE CONDITIONS CONTAINED IN THIS SECTION.

2. CERTIFICATION OF THE ORGANIZATION WITH AN INTERIM BOARD OF DIRECTORS BY THE CHAIRPERSON OF THE CRIME VICTIMS BOARD, WITH DIRECTION AS TO THE REPLACEMENT OF THE INTERIM BOARD WITH A PERMANENT BOARD ELECTED BY THE MEMBERS, SHALL COMPLY WITH THE CERTIFICATION REQUIREMENT.

3. WHENEVER ANY POLICE OFFICER OR STATE TROOPER SHALL RECEIVE ANY REPORT OF A STOLEN OR VANDALIZED MOTOR VEHICLE, THE POLICE OFFICER OR STATE TROOPER SHALL PROVIDE TO THE OWNER OF SAID VEHICLE INFORMATION PREPARED AND PROVIDED BY THE CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION ESTABLISHED PURSUANT TO THIS SECTION. THE INFORMATION SHALL PROVIDE THE FOLLOWING:

(A) THE PURPOSE, HISTORY, NATURE, ACTIVITIES, AND ACHIEVEMENTS OF THE ORGANIZATION;

(B) THAT MEMBERSHIP IN THE ORGANIZATION IS OPEN TO ALL MOTORISTS, MOTOR VEHICLE OWNERS, AND INSURANCE CONSUMERS;

(C) THAT THE ORGANIZATION IS A NOT-FOR-PROFIT CORPORATION DIRECTED BY ITS CONSUMER MEMBERS;

(D) THE PROCEDURE FOR CONTRIBUTING TO OR BECOMING A MEMBER OF THE ORGANIZATION; AND

(E) THE YEARLY MEMBERSHIP FEE.

4. UPON FURNISHING THE PROPOSED INFORMATION TO A LOCAL POLICE AGENCY OR TO THE DIVISION OF STATE POLICE FOR DISTRIBUTION, THE ORGANIZATION SHALL CERTIFY THAT THE INFORMATION IS NOT FALSE OR MISLEADING AND IS LIMITED TO THE INFORMATION PERMITTED IN SUBDIVISION THREE OF THIS SECTION. A LOCAL POLICE AGENCY OR THE DIVISION OF STATE POLICE MAY RELY ON THE ORGANIZATION'S CERTIFICATION AND IS NOT REQUIRED TO INVESTIGATE THE BASIS FOR THE CERTIFICATION. HOWEVER, IN THE EVENT THAT A LOCAL POLICE AGENCY REVIEWS THE CERTIFICATION AND THE PROPOSED INFORMATION AND DETERMINES THAT THE PROPOSED INFORMATION DOES NOT MEET THE REQUIREMENTS OF THIS SUBDIVISION, THE AGENCY SHALL RETURN THE INFORMATION TO THE ORGANIZATION FOR REVISION. IF THE AGENCY AND THE ORGANIZATION ARE UNABLE TO AGREE ON A REVISION, THE AGENCY OR THE ORGANIZATION MAY SUBMIT THE INFORMATION TO THE CHAIRPERSON OF THE CRIME VICTIMS BOARD. IF THE CHAIR-

PERSON DETERMINES THAT THE PROPOSED INFORMATION IS SUITABLE FOR DISTRIBUTION PURSUANT TO THIS SUBDIVISION, THE AGENCY SHALL DISTRIBUTE THE INFORMATION. THE CHAIRPERSON SHALL MAKE A DETERMINATION PROMPTLY, BUT IN NO EVENT LATER THAN THIRTY DAYS AFTER HIS RECEIPT OF THE ENCLOSURE.

5. THE CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION CERTIFIED BY THE CHAIRPERSON PURSUANT TO THIS SECTION SHALL MONITOR AND EVALUATE THE PERFORMANCE OF COURTS, PROSECUTORS, AND LAW ENFORCEMENT OFFICERS ON MATTERS RELATING TO AUTO THEFT. THE ORGANIZATION SHALL MAKE RECOMMENDATIONS ON ASSISTING THE VICTIMS OF AUTO THEFT, AND ON REDUCING THE INCIDENCE OF AUTO THEFT, TO THE LEGISLATURE; TO LOCAL POLICE AGENCIES; TO STATE AGENCIES, INCLUDING, BUT NOT LIMITED TO, THE DIVISION OF STATE POLICE, THE SUPERINTENDENT OF INSURANCE, THE OFFICE OF COURT ADMINISTRATION, THE DEPARTMENT OF CORRECTIONAL SERVICES, THE DIVISION OF PAROLE, THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES, THE CRIME VICTIMS BOARD, THE DIVISION OF CRIMINAL JUSTICE SERVICES, AND THE DEPARTMENT OF MOTOR VEHICLES; AND TO SUCH OTHER FEDERAL, STATE, OR LOCAL AGENCIES AS MAY BE NECESSARY TO FULFILL THE PURPOSES OF THE ORGANIZATION.

S 5. Section 837-a of the executive law is amended by adding a new subdivision 1-a to read as follows:

1-A. COLLECT AND ANALYZE STATISTICAL AND OTHER INFORMATION AND DATA WITH RESPECT TO VIOLATIONS OF ARTICLE ONE HUNDRED FIFTY-FIVE OR ARTICLE ONE HUNDRED SIXTY-FIVE OF THE PENAL LAW IN WHICH THE STOLEN PROPERTY IS A MOTOR VEHICLE OR ANY PART THEREOF. SUCH INFORMATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE MANUFACTURER, MODEL, AND MODEL YEAR OF THE VEHICLE; THE SPECIFIC PART; THE ANTI-THEFT DEVICE, IF ANY, IN USE ON THE VEHICLE; AND THE INCIDENCE OF ARRESTS, INDICTMENTS, FILING OF SUPERIOR COURT INFORMATIONS, AND THE DISPOSITIONS THEREOF, INCLUDING, BUT NOT LIMITED TO, AS THE CASE MAY BE, DISMISSAL, ACQUITTAL, THE OFFENSE TO WHICH THE DEFENDANT PLEADED GUILTY, THE OFFENSE THE DEFENDANT WAS CONVICTED OF AFTER TRIAL, AND THE SENTENCE.

S 6. Section 837-a of the executive law is amended by adding a new subdivision 9 to read as follows:

9. PROVIDE, FOLLOWING THE FILING OF AN ACCUSATORY INSTRUMENT CHARGING AN INDIVIDUAL WITH LARCENY AS DEFINED IN ARTICLE ONE HUNDRED FIFTY-FIVE OF THE PENAL LAW OF A "VEHICLE" AS DEFINED IN SECTION 10.00 OF THE PENAL LAW, NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE VICTIM OR VICTIMS OF SUCH MOTOR VEHICLE THEFT, OR WITH THE CONSENT OF SUCH VICTIM TO THE CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION ESTABLISHED IN SECTION TWO HUNDRED THIRTY-TWO OF THIS CHAPTER, THE CRIMINAL RECORD OF THE INDIVIDUAL CHARGED IN SUCH ACCUSATORY INSTRUMENT.

S 7. Section 841 of the executive law is amended by adding a new subdivision 1-a to read as follows:

1-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY POLICE TRAINING COURSE APPROVED PURSUANT TO SUBDIVISION ONE OF THIS SECTION MUST INCLUDE A MANDATORY COMPONENT ON MOTOR VEHICLE THEFT PREVENTION AND INVESTIGATION.

S 8. Section 2336 of the insurance law is amended by adding a new subsection (i) to read as follows:

(I) ANY SCHEDULE OR RATING PLAN FOR NON-COMMERCIAL PRIVATE PASSENGER MOTOR VEHICLE INSURANCE SHALL PROVIDE FOR AN APPROPRIATE REDUCTION IN PREMIUM CHARGES FOR COMPREHENSIVE COVERAGE WITH RESPECT TO ANY INSURED VEHICLE EQUIPPED WITH ANY MOTOR VEHICLE THEFT DETERRENT SYSTEM WHICH THE SUPERINTENDENT DETERMINES, AFTER A PUBLIC HEARING, MAY BE EXPECTED TO REDUCE LOSSES FOR SUCH COVERAGE.

(1) FOR THE PURPOSES OF THIS SECTION, A MOTOR VEHICLE THEFT DETERRENT SYSTEM SHALL INCLUDE ONE OR MORE OF THE FOLLOWING:

(I) PARTICIPATION IN THE MOTOR VEHICLE THEFT PREVENTION PROGRAM ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-THREE OF THE VEHICLE AND TRAFFIC LAW;

(II) THE PERMANENT ETCHING OF THE VEHICLE IDENTIFICATION NUMBER OR ANY OTHER UNIQUE IDENTIFYING SYMBOL ONTO ALL PARTS WITH A RETAIL VALUE OF TWO HUNDRED FIFTY DOLLARS OR MORE;

(2) ANY REDUCTION PROVIDED PURSUANT TO THIS SECTION SHALL BE IN ADDITION TO ANY REDUCTION PROVIDED PURSUANT TO SECTION TWO THOUSAND THREE HUNDRED THIRTY-SEVEN OF THIS ARTICLE.

S 9. Section 3425 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) NO INSURER PROVIDING MOTOR VEHICLE LIABILITY INSURANCE COVERAGE SHALL CANCEL, REFUSE TO RENEW, OR ISSUE OR CONDITION SUCH RENEWAL IN CONNECTION WITH THE INSURANCE PERMITTED OR REQUIRED BY THIS CHAPTER SOLELY BECAUSE ANY VEHICLE OWNED BY THE INSURED AND COVERED BY THE POLICY IS STOLEN OR VANDALIZED, UNLESS SUCH THEFT OR VANDALISM IS DIRECTLY ATTRIBUTABLE TO THE GROSS NEGLIGENCE OF THE INSURED.

S 10. The insurance law is amended by adding a new section 5305 to read as follows:

S 5305. INTERRUPTION IN COVERAGE DUE TO AUTO THEFT. NO INSURER SHALL PLACE ANY APPLICANT FOR INSURANCE IN THE ASSIGNED RISK CATEGORY SOLELY BECAUSE THE APPLICANT FAILED TO HAVE CONTINUOUS INSURANCE COVERAGE IF THE APPLICANT'S LAST POLICY WAS CANCELLED FOLLOWING THE THEFT OF THE APPLICANT'S VEHICLE.

S 11. Subdivision 3 of section 97-mm of the state finance law, as amended by section 2 of part A of chapter 56 of the laws of 2004, is amended to read as follows:

3. Nine million one hundred thousand dollars annually of the state police motor vehicle law enforcement account, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police [including but not limited to] FOR the costs of activities relating to the detection, prosecution or reduction of automobile theft and related purposes. Fifty-one million three hundred thousand dollars of the state police motor vehicle law enforcement account, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police including but not limited to the costs of activities relating to highway safety and public security.

S 12. Subdivision 3 of section 97-mm of the state finance law, as added by section 387 of chapter 55 of the laws of 1992, is amended to read as follows:

3. Moneys of the state police motor vehicle enforcement account, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police [including but not limited to] FOR the costs of activities relating to the detection, prosecution or reduction of automobile theft and related purposes.

S 13. Subdivision 1 of section 431 of the vehicle and traffic law, as amended by chapter 692 of the laws of 1979, is amended to read as follows:

1. Every manufacturer or assembler of a vehicle sold in this state shall provide such vehicle AND ALL MAJOR COMPONENT PARTS with a vehicle identification number OR PART IDENTIFICATION NUMBER and, upon request of

the commissioner, shall inform him concerning the location or locations of every vehicle identification number AND PART IDENTIFICATION NUMBER and other identifying numbers on such vehicle. The commissioner may refuse to register or issue a certificate of title for a vehicle made by a manufacturer or assembler who fails to comply with this section. FOR THE PURPOSES OF THIS SECTION, A MAJOR COMPONENT PART IS ANY VEHICLE PART THAT HAS A RETAIL VALUE IN EXCESS OF TWO HUNDRED FIFTY DOLLARS.

S 14. Subdivision 4 of section 502 of the vehicle and traffic law is amended by adding a new paragraph (h) to read as follows:

(H) MOTOR VEHICLE THEFT PREVENTION EDUCATION. THE COMMISSIONER SHALL PROVIDE IN THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION, A MANDATORY COMPONENT IN MOTOR VEHICLE THEFT PREVENTION EDUCATION AS A PREREQUISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE OF THIS COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES ON TECHNIQUES, STRATEGIES, PROGRAMS, AND DEVICES THAT MAY BE USED TO ASSIST IN THE PREVENTION AND REDUCTION OF MOTOR VEHICLE THEFT. THE COMMISSIONER SHALL ESTABLISH A CURRICULUM FOR MOTOR VEHICLE THEFT PREVENTION EDUCATION WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO: INSTRUCTION DESCRIBING THE PREVALENCE OF MOTOR VEHICLE THEFT IN THE STATE; THE CIVIL AND CRIMINAL PENALTIES FOR MOTOR VEHICLE THEFT; THE PROTECTIONS UNDER THE LAW FOR CONSUMERS WHO HAVE BEEN VICTIMIZED BY AUTOMOBILE THEFT; AND THE EFFECTIVENESS OF DIFFERENT PROGRAMS AND DEVICES DESIGNED TO REDUCE OR PREVENT MOTOR VEHICLE THEFT. AS PART OF THIS CURRICULUM, INFORMATION SHALL BE DISSEMINATED ON BEHALF OF THE CITIZEN ANTI-MOTOR VEHICLE THEFT ORGANIZATION ESTABLISHED IN SECTION TWO HUNDRED THIRTY-TWO OF THE EXECUTIVE LAW, IN ACCORDANCE WITH THE PROVISIONS OF SUCH SECTION. FOR THE PURPOSES OF SECTION TWO HUNDRED THIRTY-TWO OF THE EXECUTIVE LAW, THE DEPARTMENT OF MOTOR VEHICLES SHALL ACT AS A POLICE AGENCY.

S 15. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided, however, that any rules and regulations necessary to carry out the provisions of this act shall be promulgated before such effective date; and provided further, however, that the amendments to subdivision 3 of section 97-mm of the state finance law made by section eleven of this act shall not affect the expiration and reversion of such subdivision as provided in section 3 of part A of chapter 56 of the laws of 2004, as amended, when upon such date the provisions of section twelve of this act shall take effect.