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

4859

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. ALESSI -- Multi-Sponsored by -- M. of A. ZEBROWSKI -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to a demonstration program in the Oyster Ponds unified school district relating to the installation of school speed zone enforcement cameras; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The vehicle and traffic law is amended by adding a new section 223-a to read as follows:

S 223-A. SCHOOL SPEED ZONE ENFORCEMENT CAMERA DEMONSTRATION PROGRAM. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A DEMONSTRATION PROGRAM, WITHIN THE OYSTER PONDS UNIFIED SCHOOL DISTRICT IN THE TOWN OF SOUTHOLD, COUNTY OF SUFFOLK, IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR TO COMPLY WITH APPLICABLE SCHOOL SPEED ZONE LAWS. THE PUBLIC TRANSPORTATION AUTHORITY OPERATING IN SUCH SCHOOL DISTRICT, FOR PURPOSES OF IMPLEMENTATION OF SUCH PROGRAM, SHALL BE AUTHORIZED TO INSTALL AND OPERATE SCHOOL ZONE SPEED ENFORCEMENT CAMERAS ATTACHED TO ROADSIDE CURRENT SPEED DISPLAY SIGNS LOCATED IN ANY SCHOOL TRAFFIC SAFETY AND SPEED ZONE WITHIN THE OYSTER PONDS UNIFIED SCHOOL DISTRICT.

2. THE OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF ANY RULE OR REGULATION RELATING TO MAXIMUM SCHOOL SPEED LIMITS ADOPTED BY SUCH MUNICIPALITY, AND SUCH VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM AN ENFORCEMENT CAMERA.

3. FOR PURPOSES OF THIS SECTION, "OWNER" SHALL MEAN ANY PERSON, CORPORATION, PARTNERSHIP, FIRM, AGENCY, ASSOCIATION, LESSOR, OR ORGANIZATION WHO AT THE TIME OF THE ISSUANCE OF A NOTICE OF VIOLATION IN WHICH A VEHICLE IS OPERATED:

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

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(A) IS THE BENEFICIAL OR EQUITABLE OWNER OF SUCH VEHICLE; OR
(B) HAS TITLE TO SUCH VEHICLE; OR
(C) IS THE REGISTRANT OR CO-REGISTRANT OF SUCH VEHICLE WHICH IS REGISTERED WITH THE DEPARTMENT OF MOTOR VEHICLES OF THIS STATE OR ANY OTHER STATE, TERRITORY, DISTRICT, PROVINCE, NATION OR OTHER JURISDICTION; OR
(D) USES SUCH VEHICLE IN ITS VEHICLE RENTING AND/OR LEASING BUSINESS; OR
(E) IS AN OWNER OF SUCH VEHICLE AS DEFINED BY SECTION ONE HUNDRED TWENTY-EIGHT OF THIS CHAPTER OR SUBDIVISION (G) OF SECTION TWENTY-ONE HUNDRED ONE OF THIS CHAPTER.

4. FOR PURPOSES OF THIS SECTION, THE TERM "SCHOOL TRAFFIC SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAPTER.

5. A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY THE DEPARTMENT, OR A FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A SCHOOL ZONE SPEED ENFORCEMENT CAMERA, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH VIOLATION IMPOSED PURSUANT TO THIS SECTION.

6. (A) A NOTICE OF LIABILITY PURSUANT TO THIS SECTION SHALL BE SENT BY FIRST CLASS MAIL WITHIN SIX DAYS OF AN ALLEGED VIOLATION OF ANY RULE OR REGULATION RELATING TO MAXIMUM SPEED LIMITS IN SCHOOL ZONES PURSUANT TO SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER TO EACH PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR SUCH VIOLATION PURSUANT TO THIS SECTION. PERSONAL SERVICE ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.
(B) A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF ANY RULE OR REGULATION RELATING TO MAXIMUM SPEED LIMITS IN SCHOOL ZONES PURSUANT TO THIS SECTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION NUMBER OF THE SPEED ENFORCEMENT CAMERA WHICH RECORDED THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.
(C) THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABILITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.
(D) THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE PUBLIC TRANSPORTATION AUTHORITY OR ITS DESIGNEE OPERATING IN THE OYSTER PONDS UNIFIED SCHOOL DISTRICT.

7. IF AN OWNER RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION PURSUANT TO THIS SECTION THAT THE VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME

THE VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT A CERTIFIED COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS MAIL, RETURN RECEIPT REQUESTED, TO PUBLIC TRANSPORTATION AUTHORITY OR ITS DESIGNEE OPERATING IN THE OYSTER PONDS UNIFIED SCHOOL DISTRICT.

8. IF THE OWNER LIABLE FOR A VIOLATION OF ANY RULE OR REGULATION 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.

9. AN OWNER OF A VEHICLE TO WHICH A NOTICE OF LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION SIX OF THIS SECTION SHALL NOT BE LIABLE IF THE MOTORIST DRIVING OR STOPPING IN A BUS LANE OR BUS STOP WHILE:

(A) YIELDING RIGHT OF WAY TO AN EMERGENCY VEHICLE WITH ACTIVATED WARNING LIGHTS OR SIREN;

(B) AT THE DIRECTION OF LAW ENFORCEMENT OR EMERGENCY SERVICE OFFICIALS OR OTHER GOVERNMENT OFFICIALS AUTHORIZED TO STOP OR DIRECT TRAFFIC; OR

(C) WHEN AVOIDING ROAD OBSTRUCTIONS OR CONSTRUCTION OR OTHER HAZARDS.

10. AN APPEAL OF AN ADJUDICATION OF LIABILITY PURSUANT TO THIS SECTION MAY BE TAKEN IN ACCORDANCE WITH THE APPLICABLE PROVISIONS RELATING TO ADJUDICATION OF TRAFFIC INFRACTIONS IN THE DISTRICT.

11. (A) AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION SIX OF THIS SECTION SHALL NOT BE LIABLE FOR THE VIOLATION OF ANY RULE OR REGULATION RELATING TO THIS SECTION PROVIDED THAT:

(I) PRIOR TO THE VIOLATION THE LESSOR HAS FILED WITH THE BUREAU AND PAID THE REQUIRED FILING FEE IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED THIRTY-NINE OF THIS TITLE; AND

(II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE 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 THE PROVISIONS OF THIS SUBDIVISION SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN THIS SECTION.

(C) WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF THIS SUBDIVISION, 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 SIX OF THIS SECTION.

12. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF ANY RULE OR REGULATION ADOPTED BY SUCH MUNICIPALITY.

13. OWNERS FOUND TO BE LIABLE FOR A VIOLATION OF THIS SECTION SHALL BE SUBJECT TO A FINE WHICH IS DOUBLE THE FINES FOR SUCH VIOLATION PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (H) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER.

14. ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE AND DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN THE CHAIR OF THE PUBLIC TRANSPORTATION AUTHORITY OPERATING IN THE OYSTER PONDS UNIFIED SCHOOL DISTRICT WHERE A DEMONSTRATION PROJECT HAS BEEN IMPLEMENTED PURSUANT TO THIS SECTION SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR, THE TEMPO-

RARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON THE RESULTS OF SAID DEMONSTRATION PROGRAM. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) A DESCRIPTION OF THE LOCATIONS WHERE SCHOOL TRAFFIC SAFETY AND SPEED ZONE ENFORCEMENT CAMERAS WERE USED;

(B) THE NUMBER OF VIOLATIONS RECORDED IN THE AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

(C) THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED;

(D) THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST NOTICE OF LIABILITY;

(E) THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDICATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE;

(F) THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH MUNICIPALITY; AND

(G) THE QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall expire and be deemed repealed three years after such effective date. Any rules or regulations necessary for the timely implementation of this act are authorized to be made on or before such effective date.