

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

8038--A

2009-2010 Regular Sessions

I N A S S E M B L Y

May 1, 2009

Introduced by M. of A. PERRY -- read once and referred to the Committee on Transportation -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to surcharges for moving violations in school traffic safety and speed zones

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 "Clarente's
2 Law".
3 S 2. Subdivision 1 of section 1809 of the vehicle and traffic law, as
4 amended by section 2 of part DD of chapter 56 of the laws of 2008, the
5 opening paragraph and paragraph (c) as separately amended by section 4
6 of chapter 19, sections 17 of chapters 20, 21 and 22 and section 4 of
7 chapter 23 of the laws of 2009, is amended to read as follows:
8 1. Whenever proceedings in an administrative tribunal or a court of
9 this state result in a conviction for an offense under this chapter or a
10 traffic infraction under this chapter, or a local law, ordinance, rule
11 or regulation adopted pursuant to this chapter, other than a traffic
12 infraction involving standing, stopping, or parking or violations by
13 pedestrians or bicyclists, or other than an adjudication of liability of
14 an owner for a violation of subdivision (d) of section eleven hundred
15 eleven of this chapter in accordance with section eleven hundred
16 eleven-a of this chapter, or other than an adjudication of liability of
17 an owner for a violation of subdivision (d) of section eleven hundred
18 eleven of this chapter in accordance with section eleven hundred
19 eleven-b of this chapter, there shall be levied a crime victim assist-
20 ance fee and a mandatory surcharge, in addition to any sentence required
21 or permitted by law, in accordance with the following schedule:
22 (a) Whenever proceedings in an administrative tribunal or a court of
23 this state result in a conviction for a traffic infraction pursuant to

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

LBD02916-04-9

1 article nine of this chapter, there shall be levied a crime victim
2 assistance fee in the amount of five dollars and a mandatory surcharge,
3 in addition to any sentence required or permitted by law, in the amount
4 of twenty-five dollars.

5 (b) Whenever proceedings in an administrative tribunal or a court of
6 this state result in a conviction for a misdemeanor or felony pursuant
7 to section eleven hundred ninety-two of this chapter, there shall be
8 levied, in addition to any sentence required or permitted by law, a
9 crime victim assistance fee in the amount of twenty-five dollars and a
10 mandatory surcharge in accordance with the following schedule:

11 (i) a person convicted of a felony shall pay a mandatory surcharge of
12 three hundred dollars;

13 (ii) a person convicted of a misdemeanor shall pay a mandatory
14 surcharge of one hundred seventy-five dollars.

15 (c) Whenever proceedings in an administrative tribunal or a court of
16 this state result in a conviction for an offense under this chapter
17 other than a crime pursuant to section eleven hundred ninety-two of this
18 chapter, or a traffic infraction under this chapter, or a local law,
19 ordinance, rule or regulation adopted pursuant to this chapter, other
20 than a traffic infraction involving standing, stopping, or parking or
21 violations by pedestrians or bicyclists, or other than an adjudication
22 of liability of an owner for a violation of subdivision (d) of section
23 eleven hundred eleven of this chapter in accordance with section eleven
24 hundred eleven-a of this chapter, or other than an adjudication of
25 liability of an owner for a violation of subdivision (d) of section
26 eleven hundred eleven of this chapter in accordance with section eleven
27 hundred eleven-b of this chapter, or other than an infraction pursuant
28 to article nine of this chapter or other than an adjudication of liability
29 of an owner for a violation of toll collection regulations pursuant
30 to section two thousand nine hundred eighty-five of the public authorities
31 law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
32 hundred seventy-four of the laws of nineteen hundred fifty OR OTHER THAN
33 A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIM'S ASSIST-
34 ANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION, there
35 shall be levied a crime victim assistance fee in the amount of five
36 dollars and a mandatory surcharge, in addition to any sentence required
37 or permitted by law, in the amount of fifty-five dollars.

38 (D)(I) WHENEVER:

39 (A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE
40 RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A
41 CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR
42 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDI-
43 NANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

44 (B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY
45 AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN
46 PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED
47 EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE
48 FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE
49 AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR
50 PERMITTED BY LAW.

51 (II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC
52 INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY
53 PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER
54 FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF
55 THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS
56 CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR

(E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, 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.

S 3. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by section 5 of chapter 19, sections 18 of chapters 20, 21 and 22 and section 5 of chapter 23 of the laws of 2009, is amended to read as follows:

1. (A) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, OR OTHER THAN A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIMS ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars.

(B)(I) WHENEVER:

(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

(B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR (E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A,

SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, 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.

S 4. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by chapter 16 of the laws of 1983 and chapter 62 of the laws of 1989, is amended to read as follows:

1. (A) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, OR OTHER THAN A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIMS ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

(B)(I) WHENEVER:

(A) PROCEEDINGS IN AN ADMINISTRATIVE TRIBUNAL OR A COURT OF THIS STATE RESULT IN A CONVICTION FOR AN OFFENSE UNDER THIS CHAPTER (OTHER THAN A CRIME PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER) OR FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

(B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDIVISION (D) OF SECTION ELEVEN HUNDRED ELEVEN OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-A OF THIS CHAPTER; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR (E) AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF TOLL COLLECTION REGULATIONS PURSUANT TO SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY.

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1 S 5. This act shall take effect on the first of November next succeed-
2 ing the date on which it shall have become a law and shall apply to
3 violations occurring on and after such effective date; provided that:
4 a. the amendments to subdivision 1 of section 1809 of the vehicle and
5 traffic law made by section two of this act shall be subject to the
6 expiration of such subdivision when upon such date the provisions of
7 section three of this act shall take effect; and
8 b. the amendments to subdivision 1 of section 1809 of the vehicle and
9 traffic law made by section three of this act shall be subject to the
10 expiration of such subdivision when upon such date the provisions of
11 section four of this act shall take effect.