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

2651

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sens. ADAMS, FOLEY, C. JOHNSON -- 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 increased penalties for having illegally tinted windows; and to amend the state finance law, in relation to a police officer training and equipment fund

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

Section 1. This act shall be known and may be cited as "Police Officer Timoshenko's law".

S 2. Subdivision 12-a of section 375 of the vehicle and traffic law, as amended by chapter 148 of the laws of 1982, paragraphs (b) and (e) as amended, paragraph (d) as added and paragraph (f) as relettered by chapter 155 of the laws of 1991, paragraph (c) as amended by chapter 135 of the laws of 1994 and paragraph (ff) as added by chapter 32 of the laws of 1996, is amended to read as follows:

12-a. (a) Every motor vehicle, except a motorcycle, when driven or operated upon a public highway, road or street shall be equipped with a front windshield in a fixed and more or less upright position constructed of safety glass as defined in subdivision fourteen of this section and required by subdivisions eleven and twelve [hereof] OF THIS SECTION. No person shall drive any motor vehicle with any sign or other nontransparent material other than a certificate or paper required to be displayed by law upon the front windshield or the sidewings or side windows on either side forward of or adjacent to the operator's seat.

(b) No person shall operate any motor vehicle upon any public highway, road or street:

(1) the front windshield of which is composed of, covered by or treated with any material which has a light transmittance of less than seven-

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

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ty percent unless such materials are limited to the uppermost six inches of the windshield; or

(2) the sidewings or side windows of which on [either side forward of or adjacent to the operator's seat] ANY PORTION OF THE VEHICLE are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent; or

(3) [if it is classified as a station wagon, sedan, hardtop, coupe, hatchback or convertible and any rear side window has a light transmittance of less than seventy percent; or

(4)] the rear window of which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent. [A rear window may have a light transmittance of less than seventy percent if the vehicle is equipped with side mirrors on both sides of the vehicle so adjusted that the driver thereof shall have a clear and full view of the road and condition of traffic behind such vehicle.]

(c) Any person required for medical reasons to be shielded from the direct rays of the sun and/or any person operating a motor vehicle belonging to such person or in which such person is an habitual passenger shall be exempt from the provisions of subparagraphs one and two of paragraph (b) of this subdivision provided the commissioner has granted an exemption and notice of such exemption is affixed to the vehicle as directed by the commissioner. The applicant for such exemption must provide a physician's statement with the reason for the exemption, the name of the individual with a medically necessary condition operating or transported in the vehicle, the specific condition involved, and the minimum level of light transmission required. The commissioner shall only authorize exemptions where the medical condition certified by the physician is contained on a list of medical conditions prepared by the commissioner of health pursuant to subdivision sixteen of section two hundred six of the public health law. If such [such] exemption is granted, the commissioner shall make a record thereof and shall distribute a sufficiently noticeable sticker to the applicant to be attached to any window so shielded or altered pursuant to such exemption.

(d) The commissioner may test any window for a person who has been charged with violating this subdivision. If such window is found to be in conformity with this subdivision, a small label attesting to the conformity shall be affixed to the window tested.

(e) On and after January first, nineteen hundred ninety-two, no person shall manufacture, sell, offer for sale, equip or operate a motor vehicle in this state in violation of the provisions of this subdivision, except that a person may operate a nineteen hundred ninety-one or earlier model year vehicle without violating this subdivision if the windows on said vehicle were in conformity with this subdivision as it existed on December thirty-first, nineteen hundred ninety-one.

(f) The commissioner shall make such rules and regulations as he shall deem necessary to carry out the provisions of this subdivision.

[(ff)] (GG) Notwithstanding any other provision of this section or any other general, special or local law, charter, administrative code, ordinance, rule or regulation to the contrary, any person operating a motor vehicle in a burial or funeral procession while travelling to or from a funeral, interment or cremation may place a funeral sign no larger than eight and one half by fourteen inches in any window of such vehicle, as long as such sign when so placed will not prevent such person from having a clear and full view of the road and the condition of traffic behind such vehicle.

S 3. Subdivision (c) of section 301 of the vehicle and traffic law is amended by adding a new paragraph 4 to read as follows:

(4) SUCH INSPECTION SHALL ALSO INCLUDE TESTING THE LIGHT TRANSMITTANCE OF EVERY WINDOW ON THE VEHICLE TO ENSURE THAT SUCH WINDOWS COMPLY WITH THE PROVISIONS OF SUBDIVISION TWELVE-A OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS TITLE.

S 4. Subdivision (a) of section 304 of the vehicle and traffic law, as amended by chapter 608 of the laws of 1993, is amended to read as follows:

(a) No certificate or certificates of inspection shall be issued by an official inspection station until the mechanisms and other equipment, as specified in SUBDIVISION (C) OF section three hundred one [(c)] of this [chapter] ARTICLE, of the motor vehicle inspected are in proper and safe condition and comply with the rules and regulations of the commissioner and with the laws of this state AND THE LIGHT TRANSMITTANCE OF WINDOWS OF SUCH MOTOR VEHICLE CONFORM WITH PARAGRAPH FOUR OF SUBDIVISION (C) OF SECTION THREE HUNDRED ONE OF THIS ARTICLE and the emissions of such motor vehicle conform with subdivision (d) of section three hundred one of this article and regulations promulgated pursuant thereto at the time the certificate is issued.

S 5. The vehicle and traffic law is amended by adding a new section 1809-f to read as follows:

S 1809-F. MANDATORY SURCHARGE FOR VIOLATION OF WINDOW TINTING. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHENEVER PROCEEDINGS IN A COURT OF THIS STATE RESULT IN A CONVICTION PURSUANT TO SUBDIVISION TWELVE-A OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS CHAPTER, THERE SHALL BE LEVIED, IN ADDITION TO ANY FINE, SENTENCE OR OTHER SURCHARGE REQUIRED OR PERMITTED BY LAW, AN ADDITIONAL SURCHARGE OF TWO HUNDRED FIFTY DOLLARS.

2. THE ADDITIONAL SURCHARGE PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION SHALL BE PAID TO THE CLERK OF THE COURT THAT RENDERED THE CONVICTION. WITHIN THE FIRST TEN DAYS OF THE MONTH FOLLOWING COLLECTION OF THE SURCHARGE THE COLLECTING AUTHORITY SHALL DETERMINE THE AMOUNT OF SURCHARGE COLLECTED AND IT SHALL PAY SUCH MONEY TO THE STATE COMPTROLLER WHO SHALL DEPOSIT SUCH MONEY IN THE STATE TREASURY PURSUANT TO SECTION ONE HUNDRED TWENTY-ONE OF THE STATE FINANCE LAW TO THE CREDIT OF THE POLICE OFFICER TRAINING AND EQUIPMENT FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-H OF THE STATE FINANCE LAW.

3. THE PROVISIONS OF SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-SEVEN, SUBDIVISION FOUR-A OF SECTION FIVE HUNDRED TEN, AND SUBDIVISION THREE OF SECTION FIVE HUNDRED FOURTEEN OF THIS CHAPTER GOVERNING ACTIONS WHICH MAY BE TAKEN FOR FAILURE TO PAY A FINE OR PENALTY SHALL BE APPLICABLE TO THE ADDITIONAL SURCHARGE IMPOSED PURSUANT TO THIS SECTION.

S 6. The state finance law is amended by adding a new section 92-h to read as follows:

S 92-H. POLICE OFFICER TRAINING AND EQUIPMENT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE POLICE OFFICER TRAINING AND EQUIPMENT FUND.

2. SUCH FUND SHALL CONSIST OF ALL FINES AND FORFEITURES COLLECTED PURSUANT TO SECTION EIGHTEEN HUNDRED NINE-F OF THE VEHICLE AND TRAFFIC LAW AND REQUIRED TO BE DEPOSITED TO THIS FUND, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF THE FUND SHALL BE AVAILABLE FOR THE PAYMENT OF STATE AID THROUGH APPROPRIATION BY THE LEGISLATURE FOR THE PURPOSE OF TRAINING

POLICE OFFICERS ON THE DANGERS OF APPROACHING VEHICLES WITH TINTED WINDOWS AND OTHER ISSUES RELATING TO PROTECTING THE OFFICERS' LIVES. SUCH MONEYS SHALL ALSO BE AVAILABLE FOR THE PAYMENT OF STATE AID THROUGH APPROPRIATION BY THE LEGISLATURE FOR THE PURPOSE OF PROVIDING EQUIPMENT TO POLICE OFFICERS THROUGHOUT THIS STATE TO BE USED TO PROVIDE SAFETY FOR SUCH OFFICERS WHEN CONDUCTING ROUTINE TRAFFIC STOPS.

S 7. This act shall take effect immediately.