

2704

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sen. FOLEY -- 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 establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic control indications in Suffolk county

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

1 Section 1. Paragraph 2 of subdivision (a) of section 1111-a of the
2 vehicle and traffic law, as added by chapter 658 of the laws of 2006, is
3 amended and a new paragraph 3 is added to read as follows:

4 2. Such demonstration program shall utilize necessary technologies to
5 ensure, to the extent practicable, that photographs produced by such
6 traffic-control signal photo violation-monitoring systems shall not
7 include images that identify the driver, the passengers, or the contents
8 of the vehicle. Provided, however, that no notice of liability issued
9 pursuant to this section shall be dismissed solely because a photograph
10 or photographs allow for the identification of the contents of a vehi-
11 cle, provided that such city OR COUNTY has made a reasonable effort to
12 comply with the provisions of this paragraph.

13 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COUNTY OF SUFFOLK
14 IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND A LOCAL LAW OR
15 ORDINANCE ESTABLISHING A DEMONSTRATION PROGRAM IMPOSING MONETARY LIABIL-
16 ITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR THEREOF TO
17 COMPLY WITH TRAFFIC-CONTROL INDICATIONS IN SUCH COUNTY IN ACCORDANCE
18 WITH THE PROVISIONS OF THIS SECTION. SUCH DEMONSTRATION PROGRAM SHALL
19 EMPOWER A COUNTY TO INSTALL AND OPERATE TRAFFIC-CONTROL SIGNAL PHOTO
20 VIOLATION-MONITORING DEVICES AT NO MORE THAN FIFTY INTERSECTIONS WITHIN
21 SUCH COUNTY AT ANY ONE TIME.

22 S 2. Subdivisions (b), (d) and (e) of section 1111-a of the vehicle
23 and traffic law, subdivisions (b) and (d) as amended by chapter 658 of

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

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1 the laws of 2006 and subdivision (e) as amended by chapter 479 of the
2 laws of 1994, are amended to read as follows:

3 (b) In any city OR COUNTY which has adopted a local law or ordinance
4 pursuant to subdivision (a) of this section, the owner of a vehicle
5 shall be liable for a penalty imposed pursuant to this section if such
6 vehicle was used or operated with the permission of the owner, express
7 or implied, in violation of subdivision (d) of section eleven hundred
8 eleven of this article, and such violation is evidenced by information
9 obtained from a traffic-control signal photo violation-monitoring
10 system; provided however that no owner of a vehicle shall be liable for
11 a penalty imposed pursuant to this section where the operator of such
12 vehicle has been convicted of the underlying violation of subdivision
13 (d) of section eleven hundred eleven of this article.

14 (d) A certificate, sworn to or affirmed by a technician employed by
15 the city OR COUNTY in which the charged violation occurred, or a facsim-
16 ile thereof, based upon inspection of photographs, microphotographs,
17 videotape or other recorded images produced by a traffic-control signal
18 photo violation-monitoring system, shall be prima facie evidence of the
19 facts contained therein. Any photographs, microphotographs, videotape or
20 other recorded images evidencing such a violation shall be available for
21 inspection in any proceeding to adjudicate the liability for such
22 violation pursuant to a local law or ordinance adopted pursuant to this
23 section.

24 (e) An owner liable for a violation of subdivision (d) of section
25 eleven hundred eleven of this article pursuant to a local law or ordi-
26 nance adopted pursuant to this section shall be liable for monetary
27 penalties in accordance with a schedule of fines and penalties to be set
28 forth in such local law or ordinance, except that in a city OR COUNTY
29 which, by local law, has authorized the adjudication of such owner
30 liability by a parking violations bureau, such schedule shall be promul-
31 gated by such bureau. The liability of the owner pursuant to this
32 section shall not exceed fifty dollars for each violation; provided,
33 however, that such local law or ordinance may provide for an additional
34 penalty not in excess of twenty-five dollars for each violation for the
35 failure to respond to a notice of liability within the prescribed time
36 period.

37 S 3. Paragraph 4 of subdivision (g) of section 1111-a of the vehicle
38 and traffic law, as added by chapter 746 of the laws of 1988, is amended
39 to read as follows:

40 4. The notice of liability shall be prepared and mailed by the city OR
41 COUNTY having jurisdiction over the intersection where the violation
42 occurred, or by any other entity authorized by the city OR COUNTY to
43 prepare and mail such notification of violation.

44 S 4. Subdivision (h) of section 1111-a of the vehicle and traffic law,
45 as added by chapter 746 of the laws of 1988, is amended to read as
46 follows:

47 (h) Adjudication of the liability imposed upon owners by this section
48 shall be by a traffic violations bureau established pursuant to section
49 three hundred seventy of the general municipal law or, if there be none,
50 by the court having jurisdiction over traffic infractions, except that
51 any city OR COUNTY which has established an administrative tribunal to
52 hear and determine complaints of traffic infractions constituting park-
53 ing, standing or stopping violations may, by local law, authorize such
54 adjudication by such tribunal.

55 S 5. Paragraph 1 and the opening paragraph of subparagraph (i) of
56 paragraph 2 of subdivision (j) of section 1111-a of the vehicle and

1 traffic law, as added by chapter 746 of the laws of 1988, are amended to
2 read as follows:

3 1. In a city OR COUNTY where the adjudication of liability imposed
4 upon owners pursuant to this section is by a traffic violations bureau
5 or a court having jurisdiction, an owner who is a lessor of a vehicle to
6 which a notice of liability was issued pursuant to subdivision (g) of
7 this section shall not be liable for the violation of subdivision (d) of
8 section eleven hundred eleven of this article, provided that he or she
9 sends to the traffic violations bureau or court having jurisdiction a
10 copy of the rental, lease or other such contract document covering such
11 vehicle on the date of the violation, with the name and address of the
12 lessee clearly legible, within thirty-seven days after receiving notice
13 from the bureau or court of the date and time of such violation, togeth-
14 er with the other information contained in the original notice of
15 liability. Failure to send such information within such thirty-seven day
16 time period shall render the owner liable for the penalty prescribed by
17 this section. Where the lessor complies with the provisions of this
18 paragraph, the lessee of such vehicle on the date of such violation
19 shall be deemed to be the owner of such vehicle for purposes of this
20 section, shall be subject to liability for the violation of subdivision
21 (d) of section eleven hundred eleven of this article pursuant to this
22 section and shall be sent a notice of liability pursuant to subdivision
23 (g) of this section.

24 In a city OR COUNTY which, by local law, has authorized the adjudi-
25 cation of liability imposed upon owners by this section by a parking
26 violations bureau, an owner who is a lessor of a vehicle to which a
27 notice of liability was issued pursuant to subdivision (g) of this
28 section shall not be liable for the violation of subdivision (d) of
29 section eleven hundred eleven of this article, provided that:

30 S 6. Subdivision (m) of section 1111-a of the vehicle and traffic law,
31 as amended by chapter 658 of the laws of 2006, is amended to read as
32 follows:

33 (m) In any city OR COUNTY which adopts a demonstration program pursu-
34 ant to subdivision (a) of this section, such city OR COUNTY shall submit
35 an annual report on the results of the use of a traffic-control signal
36 photo violation-monitoring system to the governor, the temporary presi-
37 dent of the senate and the speaker of the assembly on or before June
38 first, two thousand seven and on the same date in each succeeding year
39 in which the demonstration program is operable. Such report shall
40 include, but not be limited to:

41 1. a description of the locations where traffic-control signal photo
42 violation-monitoring systems were used;

43 2. within each borough of such city OR WITHIN EACH COUNTY, the aggre-
44 gate number, type and severity of accidents reported at intersections
45 where a traffic-control signal photo violation-monitoring system is used
46 for the year preceding the installation of such system, to the extent
47 the information is maintained by the department of motor vehicles of
48 this state;

49 3. within each borough of such city OR WITHIN EACH COUNTY, the aggre-
50 gate number, type and severity of accidents reported at intersections
51 where a traffic-control signal photo violation-monitoring system is
52 used, to the extent the information is maintained by the department of
53 motor vehicles of this state;

54 4. the number of violations recorded at each intersection where a
55 traffic-control signal photo violation-monitoring system is used and in
56 the aggregate on a daily, weekly and monthly basis;

- 1 5. the total number of notices of liability issued for violations
 - 2 recorded by such systems;
 - 3 6. the number of fines and total amount of fines paid after first
 - 4 notice of liability issued for violations recorded by such systems;
 - 5 7. the number of violations adjudicated and results of such adjudi-
 - 6 cations including breakdowns of dispositions made for violations
 - 7 recorded by such systems;
 - 8 8. the total amount of revenue realized by such city OR COUNTY from
 - 9 such adjudications;
 - 10 9. expenses incurred by such city OR COUNTY in connection with the
 - 11 program; and
 - 12 10. quality of the adjudication process and its results.
- 13 S 7. This act shall take effect immediately, provided, however, the
- 14 amendments to section 1111-a of the vehicle and traffic law made by this
- 15 act shall not affect the repeal of such section and shall be deemed
- 16 repealed therewith.