

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. LITTLE -- 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 prohibiting the use of unmarked police vehicles

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

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 1102-a to read as follows:
3 S 1102-A. USE OF UNMARKED POLICE VEHICLES PROHIBITED. (A) NOTWITH-
4 STANDING ANY OTHER LAW, RULE, OR REGULATION TO THE CONTRARY, NO UNMARKED
5 OR CONCEALED IDENTITY POLICE VEHICLE SHALL BE USED BY ANY POLICE OFFICER
6 TO ROUTINELY STOP OR APPREHEND OPERATORS OF MOTOR VEHICLES FOR
7 VIOLATIONS OF THIS CHAPTER, AND NO GOVERNMENTAL ENTITY SHALL REQUIRE OR
8 PERMIT THE USE OF SUCH VEHICLES FOR SUCH PURPOSE, ON AND AFTER NOVEMBER
9 FIRST, TWO THOUSAND TEN; PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN
10 THIS SECTION SHALL BE DEEMED TO PROHIBIT THE USE OF SUCH VEHICLES TO
11 STOP OR APPREHEND OPERATORS OF MOTOR VEHICLES FOR SUCH OFFENSES, BUT
12 ONLY UNDER CIRCUMSTANCES WHICH ARE EXCEPTIONAL, NECESSARY, AND WHICH
13 PRESENT A SUBSTANTIAL THREAT TO PUBLIC SAFETY. A POLICE VEHICLE SHALL BE
14 DEEMED TO BE UNMARKED OR HAVE A CONCEALED IDENTITY UNLESS IT IS EQUIPPED
15 WITH: (I) LIGHTS AS AUTHORIZED BY SUBDIVISION FORTY-ONE OF SECTION THREE
16 HUNDRED SEVENTY-FIVE OF THIS CHAPTER, WHICH ARE DISPLAYED AND VISIBLE;
17 (II) A HORN, SIREN, ELECTRONIC DEVICE, OR EXHAUST WHISTLE FROM WHICH
18 AUDIBLE SIGNALS ARE SOUNDED; AND (III) AN INSIGNIA IDENTIFYING SUCH
19 VEHICLE AS A POLICE VEHICLE AS DEFINED BY THIS SECTION.
20 (B) WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICA-
21 TION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF
22 THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A
23 SPECIAL PROCEEDING TO ISSUE AN INJUNCTION AND, UPON NOTICE TO THE
24 DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTIN-

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

1 UANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF
2 THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS
3 SECTION, AN INJUNCTION MAY BE ISSUED BY THE COURT OR JUSTICE, ENJOINING
4 AND RESTRAINING ANY FURTHER VIOLATIONS, WITHOUT REQUIRING PROOF THAT ANY
5 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN ANY SUCH
6 PROCEEDING, THE COURT MAY MAKE ALLOWANCES TO THE ATTORNEY GENERAL AS
7 PROVIDED IN PARAGRAPH SIX OF SUBDIVISION (A) OF SECTION EIGHTY-THREE
8 HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES, AND DIRECT RESTITU-
9 TION. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY
10 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE
11 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-
12 TICE LAW AND RULES.

13 (C) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE
14 THE FOLLOWING MEANINGS: "GOVERNMENTAL ENTITY" SHALL MEAN THE STATE, A
15 PUBLIC AUTHORITY, A POLICE DISTRICT, A COUNTY, TOWN, CITY, OR VILLAGE;
16 "POLICE OFFICER" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION
17 THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW; AND "POLICE
18 VEHICLE" SHALL MEAN EVERY VEHICLE FOR WHICH THE STATE, A PUBLIC AUTHORI-
19 TY, A POLICE DISTRICT, A COUNTY, TOWN, CITY, OR VILLAGE IS THE OWNER AND
20 WHICH IS OPERATED BY THE POLICE DEPARTMENT OR LAW ENFORCEMENT AGENCY OF
21 SUCH GOVERNMENTAL UNIT OR BY A CONSTABLE OR POLICE CONSTABLE OF A TOWN
22 WHEN ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES.

23 S 2. This act shall take effect immediately.