

3618

2009-2010 Regular Sessions

I N S E N A T E

March 25, 2009

Introduced by Sen. DILAN -- (at request of the Metropolitan Transportation Authority) -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the public authorities law, in relation to the maximum civil penalties and service by mail provisions of the transit adjudication bureau of the New York city transit authority

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

1 Section 1. Subdivision 5-a of section 1204 of the public authorities
2 law, as amended by chapter 931 of the laws of 1984, is amended to read
3 as follows:
4 5-a. To make, amend and repeal rules governing the conduct and safety
5 of the public as it may deem necessary, convenient or desirable for the
6 use and operation of the transit facilities under its jurisdiction,
7 including without limitation rules relating to the protection or maintenance
8 of such facilities, the conduct and safety of the public, the
9 payment of fares or other lawful charges for the use of such facilities,
10 the presentation or display of documentation permitting free passage,
11 reduced fare passage or full fare passage on such facilities and the
12 protection of the revenue of the authority. Violations of such rules
13 shall be an offense punishable by a fine of not exceeding twenty-five
14 dollars or by imprisonment for not longer than ten days, or both, or may
15 be punishable by the imposition by the transit adjudication bureau
16 established pursuant to the provisions of this title of a civil penalty
17 in an amount for each violation not to exceed [one] TWO hundred FIFTY
18 dollars (exclusive of interest or costs assessed thereon), in accordance
19 with a schedule of such penalties as may from time to time be established
20 by rules of the authority. Such schedule of penalties may provide
21 for the imposition of additional penalties, not to exceed a total of
22 [fifty] SEVENTY dollars for each violation, upon the failure of a
23 respondent in any proceeding commenced with respect to any such

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

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1 violation to make timely response to or appearance in connection with a
2 notice of violation of such rule or to any subsequent notice or order
3 issued by the authority in such proceeding. There shall be no penalty or
4 increment in fine by virtue of a respondent's timely exercise of his
5 right to a hearing or appeal. The rules may provide, in addition to any
6 other sanctions, for the confiscation of tokens, tickets, cards or other
7 fare media that have been forged, counterfeit, improperly altered or
8 transferred, or otherwise used in a manner inconsistent with such rules.
9 S 2. Paragraph b of subdivision 4 of section 1209-a of the public
10 authorities law, as amended by chapter 379 of the laws of 1992, is
11 amended to read as follows:

12 b. To impose civil penalties not to exceed a total of [one] THREE
13 hundred [fifty] TWENTY dollars for any transit infraction within its
14 jurisdiction, in accordance with a penalty schedule established by the
15 authority except that penalties for violations of the health code of the
16 city of New York shall be in accordance with the penalties established
17 for such violations by the board of health of the city of New York, and
18 penalties for violations of the noise code of the city of New York shall
19 be in accordance with the penalties established for such violations by
20 law, and civil penalties for violations of the rules and regulations of
21 the triborough bridge and tunnel authority shall be in accordance with
22 the penalties established for such violations by section [two thousand
23 nine] TWENTY-NINE hundred eighty-five of this chapter;

24 S 3. Paragraphs a and g of subdivision 7 of section 1209-a of the
25 public authorities law, as amended by chapter 379 of the laws of 1992,
26 are amended to read as follows:

27 a. (1) A person charged with a transit infraction returnable to the
28 bureau or a person alleged to be liable in accordance with the
29 provisions of section [two thousand nine] TWENTY-NINE hundred eighty-
30 five of this chapter who contests such allegation shall be advised of
31 the date on or by which he or she must appear to answer the charge at a
32 hearing. Notification of such hearing date shall be given either in the
33 notice of violation or in a form, the content of which shall be
34 prescribed by the executive director or in a manner prescribed in
35 section [two thousand nine] TWENTY-NINE hundred eighty-five of this
36 chapter. Any such notification shall contain a warning to advise the
37 person charged that failure to appear on or by the date designated, or
38 any subsequent rescheduled or adjourned date, shall be deemed for all
39 purposes, an admission of liability, and that a default judgment may be
40 rendered and penalties may be imposed. Where notification is given in a
41 manner other than in the notice of violation, the bureau shall deliver
42 such notice to the person charged, either personally or by [registered
43 or certified] FIRST CLASS mail.

44 (2) Whenever a person charged with a transit infraction or alleged to
45 be liable in accordance with the provisions of section [two thousand
46 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the
47 bureau requests an alternate hearing date and is not then in default as
48 defined in subdivision six of this section, the bureau shall advise such
49 person personally, or by [registered or certified] FIRST CLASS mail, of
50 the alternate hearing date on or by which he or she must appear to
51 answer the charge or allegation at a hearing. The form and content of
52 such notice of hearing shall be prescribed by the executive director,
53 and shall contain a warning to advise the person charged or alleged to
54 be liable that failure to appear on or by the alternate designated hear-
55 ing date, or any subsequent rescheduled or adjourned date, shall be

1 deemed for all purposes an admission of liability, and that a default
2 judgment may be rendered and penalties may be imposed.

3 (3) Whenever a person charged with a transit infraction or alleged to
4 be liable in accordance with the provisions of section [two thousand
5 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the
6 bureau appears at a hearing and obtains an adjournment of the hearing
7 pursuant to the rules of the bureau, the bureau shall advise such person
8 personally, or by [registered or certified] FIRST CLASS mail, of the
9 adjourned date on which he or she must appear to answer the charge or
10 allegation at a continued hearing. The form and content of such notice
11 of a continued hearing shall be prescribed by the executive director,
12 and shall contain a warning to advise the person charged or alleged to
13 be liable that failure to appear on the adjourned hearing date shall be
14 deemed for all purposes an admission of liability, and that a default
15 judgment may be rendered and penalties may be imposed.

16 g. After due consideration of the evidence and arguments, the hearing
17 officer shall determine whether the charges or allegations have been
18 established. No charge may be established except upon proof by clear and
19 convincing evidence except allegations of civil liability for violations
20 of triborough bridge and tunnel authority rules and regulations will be
21 established in accordance with the provisions of section [two thousand
22 nine] TWENTY-NINE hundred eighty-five of this chapter. Where the charges
23 have not been established, an order dismissing the charges or allega-
24 tions shall be entered. Where a determination is made that a charge or
25 allegation has been established or if an answer admitting the charge or
26 allegation has been received, the hearing officer shall set a penalty in
27 accordance with the penalty schedule established by the authority, or
28 for allegations of civil liability in accordance with the provisions of
29 section [two thousand nine] TWENTY-NINE hundred eighty-five of this
30 chapter and an appropriate order shall be entered in the records of the
31 bureau. The respondent shall be given notice of such entry in person or
32 by [certified] FIRST CLASS mail. This order shall constitute the final
33 determination of the hearing officer, and for purposes of review it
34 shall be deemed to incorporate any intermediate determinations made by
35 said officer in the course of the proceeding. When no appeal is filed
36 this order shall be the final order of the bureau.

37 S 4. Paragraph d of subdivision 8 of section 1209-a of the public
38 authorities law, as amended by chapter 379 of the laws of 1992, is
39 amended to read as follows:

40 d. Appeals shall be made without the appearance of the appellant and
41 appellant's attorney unless the presence of either or both are requested
42 by the appellant, appellant's attorney, appellant's parent or guardian
43 if appellant is a minor, or the appeals board. Within twenty days after
44 a request for an appearance, made by or for the appellant, appellant's
45 attorney or the board, the bureau shall advise the appellant, either
46 personally or by [registered or certified] FIRST CLASS mail, of the date
47 on which he or she shall appear. The appellant shall be notified in
48 writing of the decision of the appeals board.

49 S 5. This act shall take effect immediately.