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

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:

Section 1. Subdivision 5-a of section 1204 of the public authorities law, as amended by chapter 931 of the laws of 1984, is amended to read as follows:

5-a. To make, amend and repeal rules governing the conduct and safety of the public as it may deem necessary, convenient or desirable for the use and operation of the transit facilities under its jurisdiction, including without limitation rules relating to the protection or maintenance of such facilities, the conduct and safety of the public, the payment of fares or other lawful charges for the use of such facilities, the presentation or display of documentation permitting free passage, reduced fare passage or full fare passage on such facilities and the protection of the revenue of the authority. Violations of such rules shall be an offense punishable by a fine of not exceeding twenty-five dollars or by imprisonment for not longer than ten days, or both, or may be punishable by the imposition by the transit adjudication bureau established pursuant to the provisions of this title of a civil penalty in an amount for each violation not to exceed [one] TWO hundred FIFTY dollars (exclusive of interest or costs assessed thereon), in accordance with a schedule of such penalties as may from time to time be established by rules of the authority. Such schedule of penalties may provide for the imposition of additional penalties, not to exceed a total of [fifty] SEVENTY dollars for each violation, upon the failure of a 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.

LBD09378-02-9

violation to make timely response to or appearance in connection with a notice of violation of such rule or to any subsequent notice or order issued by the authority in such proceeding. There shall be no penalty or increment in fine by virtue of a respondent's timely exercise of his right to a hearing or appeal. The rules may provide, in addition to any other sanctions, for the confiscation of tokens, tickets, cards or other fare media that have been forged, counterfeit, improperly altered or transferred, or otherwise used in a manner inconsistent with such rules.

S 2. Paragraph b of subdivision 4 of section 1209-a of the public authorities law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

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

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

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

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

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

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

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

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

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

S 5. This act shall take effect immediately.