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

3620

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 vehicle and traffic law and the public officers law, in relation to establishing a bus rapid transit program to enforce bus lane restrictions (Part A); and to amend the vehicle and traffic law, in relation to safety guidelines and procedures involving transit buses (Part B)

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

Section 1. This act enacts into law major components of legislation which are necessary to implement safety guidelines and procedures involving transit buses and the roadways. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subdivision 1 of section 235 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, in any city which heretofore or hereafter is authorized to establish an administrative tribunal to hear and determine complaints of traffic infractions consti-

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

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tuting parking, standing or stopping violations, or to adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, [or] to adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the rules and regulations pertaining thereto shall be constituted in substantial conformance with the following sections.

S 2. Subdivision 1 of section 236 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

1. Creation. In any city as hereinbefore or hereafter authorized such tribunal when created shall be known as the parking violations bureau and shall have jurisdiction of traffic infractions which constitute a parking violation and, where authorized by local law adopted pursuant to subdivision (a) of section eleven hundred eleven-a of this chapter, shall adjudicate the liability of owners for violations of subdivision (d) of section eleven hundred eleven of this chapter in accordance with such section eleven hundred eleven-a, and shall adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, AND SHALL ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION. Such tribunal, except in a city with a population of one million or more, shall also have jurisdiction of abandoned vehicle violations. For the purposes of this article, a parking violation is the violation of any law, rule or regulation providing for or regulating the parking, stopping or standing of a vehicle. In addition for purposes of this article, "commissioner" shall mean and include the commissioner of traffic of the city or an official possessing authority as such a commissioner.

S 3. Subdivision 11 of section 237 of the vehicle and traffic law, as added by chapter 379 of the laws of 1992, is amended and a new subdivision 12 is added to read as follows:

11. To adjudicate the liability of owners for violations of toll collection regulations as defined in and in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty[.];

12. TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER FOR VIOLATIONS OF BUS LANE RESTRICTIONS AS DEFINED IN SUCH SECTION.

S 4. Paragraph f of subdivision 1 of section 239 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article,

but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in section eleven hundred eleven-a of this chapter and shall not be deemed to include a notice of liability issued pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER.

S 5. Subdivision 4 of section 239 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, is amended to read as follows:

4. Applicability. The provisions of paragraph b of subdivision two and subdivision three of this section shall not be applicable to determinations of owner liability for the failure of an operator to comply with subdivision (d) of section eleven hundred eleven of this chapter and shall not be applicable to determinations of owner liability imposed pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty AND SHALL NOT BE APPLICABLE TO DETERMINATIONS OF OWNER LIABILITY FOR VIOLATIONS OF SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER.

S 6. Subdivisions 1 and 1-a of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

1. Notice of hearing. Whenever a person charged with a parking violation enters a plea of not guilty or a person alleged to be liable in accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter contests such allegation, or a person alleged to be liable in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law [or], OF sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR OF SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, the bureau shall advise such person personally by such form of first class mail as the director may direct of the date on which he must appear to answer the charge at a hearing. The form and content of such notice of hearing shall be prescribed by the director, and shall contain a warning to advise the person so pleading or contesting that failure to appear on the date designated, or on any subsequent adjourned date, shall be deemed an admission of liability, and that a default judgment may be entered thereon.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing.

S 7. Paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with section eleven hundred eleven-a of this chapter is contested or of a hearing at which liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty is contested OR A HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER IS CONTESTED. Recording devices may be used for the making of the record.

S 8. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he may examine either the prior parking violations record or the record of liabilities incurred in accordance with section eleven hundred eleven-a of this chapter or the record of liabilities incurred in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty of the person charged OR THE RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or fails to contest an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability in accordance with section eleven hundred eleven-a of this chapter alleged or liability in accord-

ance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty alleged OR LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or contesting an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR CONTESTING AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, as appropriate, or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, he shall impose no greater penalty or fine than those upon which the person was originally charged.

S 9. Subparagraph (i) of paragraph a of subdivision 5-a of section 401 of the vehicle and traffic law, as amended by chapter 496 of the laws of 1990 and designated by chapter 373 of the laws of 1994, is amended to read as follows:

(i) If at the time of application for a registration or renewal thereof there is a certification from a court, parking violations bureau, traffic and parking violations agency or administrative tribunal of appropriate jurisdiction or administrative tribunal of appropriate jurisdiction that the registrant or his representative failed to appear on the return date or any subsequent adjourned date or failed to comply with the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority or (ii) the registrant was liable in accordance with section eleven hundred eleven-a of this chapter for a violation of subdivision (d) of section eleven hundred eleven of this chapter OR (III) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, the commissioner or his agent shall deny the registration or renewal application until the applicant provides proof from the court, traffic and parking violations agency or administrative tribunal wherein the charges are pending that an appear-

ance or answer has been made or in the case of an administrative tribunal that he has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.

S 10. The vehicle and traffic law is amended by adding a new section 1111-b to read as follows:

S 1111-B. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH BUS LANE RESTRICTIONS. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH CITY WITH A POPULATION OF ONE MILLION OR MORE IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A BUS RAPID TRANSIT PROGRAM AND IMPOSE MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR THEREOF TO COMPLY WITH BUS LANE RESTRICTIONS IN SUCH CITY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. THE DEPARTMENT OF TRANSPORTATION OF SUCH CITY, FOR PURPOSES OF THE IMPLEMENTATION OF SUCH PROGRAM, SHALL OPERATE BUS LANE PHOTO DEVICES ONLY ALONG BUS ROUTES DESIGNATED AS PART OF THE BUS RAPID TRANSIT PROGRAM IN SUCH CITY. SUCH BUS LANE PHOTO DEVICES MAY BE STATIONARY OR MOBILE AND SHALL BE ACTIVATED ON BUSES SELECTED BY SUCH DEPARTMENT OF TRANSPORTATION IN CONSULTATION WITH THE APPLICABLE MASS TRANSIT AGENCY.

(B) IN ANY CITY THAT HAS ESTABLISHED A BUS RAPID TRANSIT PROGRAM PURSUANT TO SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS OR IMPLIED, IN VIOLATION OF ANY BUS LANE RESTRICTIONS THAT APPLY TO BUS ROUTES DESIGNATED AS PART OF THE BUS RAPID TRANSIT PROGRAM, AND SUCH VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM A BUS LANE PHOTO DEVICE; PROVIDED HOWEVER THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION WHERE THE OPERATOR OF SUCH VEHICLE HAS BEEN CONVICTED OF THE UNDERLYING VIOLATION OF ANY BUS LANE RESTRICTIONS.

(C) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

1. "OWNER" SHALL HAVE THE MEANING PROVIDED IN ARTICLE TWO-B OF THIS CHAPTER.

2. "BUS LANE PHOTO DEVICE" SHALL MEAN A DEVICE THAT IS CAPABLE OF OPERATING INDEPENDENTLY OF AN ENFORCEMENT OFFICER AND PRODUCES ONE OR MORE IMAGES OF EACH VEHICLE AT THE TIME IT IS IN VIOLATION OF BUS LANE RESTRICTIONS.

3. "BUS LANE RESTRICTIONS" SHALL MEAN RESTRICTIONS ON THE USE OF DESIGNATED TRAFFIC LANES, INCLUDING BUS STOP AREAS, BY VEHICLES OTHER THAN BUSES IMPOSED ON ROUTES WITHIN A BUS RAPID TRANSIT PROGRAM BY RULE OR SIGNS ERECTED BY THE DEPARTMENT OF TRANSPORTATION OF A CITY THAT ESTABLISHES A BUS RAPID TRANSIT PROGRAM PURSUANT TO THIS SECTION.

4. "BUS RAPID TRANSIT PROGRAM" SHALL MEAN A PROGRAM THAT OPERATES ON ROUTES DESIGNATED BY THE DEPARTMENT OF TRANSPORTATION OF A CITY THAT ESTABLISHES SUCH A PROGRAM PURSUANT TO THIS SECTION AND IN A CITY WITH A

POPULATION OF ONE MILLION OR MORE AND IN CONSULTATION WITH THE APPLICABLE MASS TRANSIT AGENCY.

(D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY THE CITY IN WHICH THE CHARGED VIOLATION OCCURRED OR ITS VENDOR OR CONTRACTOR, OR A FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION.

(E) AN OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION IMPOSED ON ANY DESIGNATED BUS ROUTE SHALL BE LIABLE FOR MONETARY PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES PROMULGATED BY THE PARKING VIOLATIONS BUREAU OF SUCH CITY; PROVIDED, HOWEVER, THAT THE MONETARY PENALTY FOR VIOLATING A BUS LANE RESTRICTION SHALL NOT EXCEED ONE HUNDRED FIFTEEN DOLLARS; PROVIDED, FURTHER, THAT AN OWNER SHALL BE LIABLE FOR AN ADDITIONAL PENALTY NOT TO EXCEED TWENTY-FIVE DOLLARS FOR EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITHIN THE PRESCRIBED TIME PERIOD.

(F) AN IMPOSITION OF LIABILITY PURSUANT TO THIS SECTION SHALL NOT BE DEEMED A CONVICTION OF AN OPERATOR AND SHALL NOT BE MADE PART OF THE OPERATING RECORD OF THE PERSON UPON WHOM SUCH LIABILITY IS IMPOSED, NOR SHALL IT BE USED FOR INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(G) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE RESTRICTION. PERSONAL DELIVERY ON THE OWNER SHALL NOT BE REQUIRED. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A BUS LANE RESTRICTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION NUMBER OF THE BUS LANE PHOTO DEVICE WHICH RECORDED THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABILITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY OR AGENCIES DESIGNATED BY SUCH CITY.

(H) IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH SUCH VEHICLE WAS REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF A BUS LANE RESTRICTION THAT THE VEHICLE HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT AN ORIGINAL INCIDENT FORM ISSUED BY THE POLICE ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS MAIL TO THE PARKING VIOLATIONS BUREAU OF SUCH CITY.

(I) 1. AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (G) OF THIS SECTION SHALL NOT BE LIABLE FOR THE VIOLATION OF A BUS LANE RESTRICTION, PROVIDED THAT:

(I) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH SUCH PARKING VIOLATIONS BUREAU IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED THIRTY-NINE OF THIS CHAPTER; AND

(II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU OF THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION, TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL, LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

2. FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH ONE OF THIS SUBDIVISION SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN THIS SECTION.

3. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSUANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO SUBDIVISION (G) OF THIS SECTION.

(J) IF THE OWNER LIABLE FOR A VIOLATION OF A BUS LANE RESTRICTION WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE OWNER MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

(K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF BUS LANE RESTRICTIONS.

S 11. The opening paragraph of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by section 2 of part DD of chapter 56 of the laws of 2008, is amended to read as follows:

Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, there shall be levied a crime victim assistance fee and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

S 12. Paragraph (c) of subdivision 1 of section 1809 of the vehicle and traffic law, as amended by section 2 of part DD of chapter 56 of the laws of 2008, is amended to read as follows:

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section

eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, OR OTHER THAN AN ADJUDICATION IN ACCORDANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of fifty-five dollars.

S 13. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (k) to read as follows:

(K) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A BUS LANE PHOTO DEVICE PREPARED UNDER AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-B OF THE VEHICLE AND TRAFFIC LAW.

S 14. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to subdivision 1 of section 235 of the vehicle and traffic law made by section one of this act; the amendments to subdivision 1 of section 236 of the vehicle and traffic law made by section two of this act; the amendments to subdivision 1 of section 239 of the vehicle and traffic law made by section four of this act; the amendments to subdivision 4 of section 239 of the vehicle and traffic law made by section five of this act; the amendments to subdivisions 1, 1-a, and 2 of section 240 of the vehicle and traffic law made by sections six and seven of this act; the amendments to subdivisions 1 and 2 of section 241 of the vehicle and traffic law made by section eight of this act; the amendments to paragraph (a) of subdivision 5-a of section 401 of the vehicle and traffic law made by section nine of this act; and the amendments to subdivision 1 of section 1809 of the vehicle and traffic law made by sections eleven and twelve of this act shall not affect the repeal or expiration of such provisions and shall be deemed to repeal or expire therewith; and further provided that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such date.

PART B

Section 1. The vehicle and traffic law is amended by adding a new section 1147 to read as follows:

S 1147. FAILURE TO YIELD RIGHT OF WAY TO TRANSIT BUS. (A) A DRIVER OF A VEHICLE SHALL YIELD THE RIGHT OF WAY TO A TRANSIT BUS RE-ENTERING TRAFFIC FROM A BUS STOP WHEN THE DRIVER CAN SAFELY CHANGE LANES OR SLOW DOWN OR STOP, WHERE:

(1) A YIELD SIGN AS DESCRIBED IN SUBDIVISION (B) OF THIS SECTION IS DISPLAYED PROMINENTLY ON THE REAR OF A TRANSIT BUS; AND

(2) THE DRIVER IS OPERATING A VEHICLE THAT IS OVERTAKING THE TRANSIT BUS FROM THE LEFT REAR OF THE TRANSIT BUS; AND

(3) THE TRANSIT BUS IS SIGNALING THROUGH USE OF A TURN SIGNAL AN INTENTION TO RE-ENTER FROM A BUS STOP THE LANE OF TRAFFIC OCCUPIED BY THE DRIVER OF THE VEHICLE.

(B) THE YIELD SIGN REFERRED TO IN PARAGRAPH (1) OF SUBDIVISION (A) OF THIS SECTION MAY BE A CLEARLY VISIBLE DECAL WARNING A DRIVER OF A VEHICLE APPROACHING THE REAR OF A TRANSIT BUS THAT SUCH DRIVER MUST YIELD WHEN THE TRANSIT BUS IS RE-ENTERING TRAFFIC FROM A BUS STOP.

(C) THIS SECTION SHALL NOT OPERATE TO RELIEVE THE DRIVER OF A TRANSIT BUS FROM THE DUTY TO DRIVE WITH REASONABLE CARE FOR ALL PERSONS USING THE HIGHWAY.

(D) FOR PURPOSES OF THIS SECTION, THE TERM "TRANSIT BUS" SHALL MEAN A BUS OPERATED FOR THE PROVISION OF MASS TRANSPORTATION.

S 2. Subdivision (a) of section 1160 of the vehicle and traffic law, as amended by chapter 162 of the laws of 1990, is amended to read as follows:

(a) Right turns. 1. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway or, where travel on the shoulder or slope has been authorized, from the shoulder or slope.

2. WHERE A VIOLATION OF PARAGRAPH ONE OF THIS SUBDIVISION ARISES THROUGH THE FAILURE OF A DRIVER OF A VEHICLE TO PROPERLY UTILIZE WHEN PRACTICABLE THAT PORTION OF THE ROADWAY DESIGNATED AS A BUS LANE OR BUS STOP FOR USE BY A TRANSIT BUS AND INTERFERES WITH THE NORMAL OPERATION OF A TRANSIT BUS, SUCH VIOLATION SHALL CONSTITUTE A TRAFFIC INFRACTION PUNISHABLE BY A FINE OF NOT MORE THAN TWO HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT; FOR A CONVICTION OF A SECOND VIOLATION, BOTH OF WHICH WERE COMMITTED WITHIN A PERIOD OF EIGHTEEN MONTHS, SUCH PERSON SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FOUR HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN FORTY-FIVE DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT; UPON A CONVICTION OF A THIRD OR SUBSEQUENT VIOLATION, ALL OF WHICH WERE COMMITTED WITHIN A PERIOD OF EIGHTEEN MONTHS, SUCH PERSON SHALL BE PUNISHED BY A FINE OF NOT MORE THAN SIX HUNDRED DOLLARS OR BY IMPRISONMENT FOR NOT MORE THAN NINETY DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT. FOR PURPOSES OF THIS PARAGRAPH, THE TERM TRANSIT BUS SHALL MEAN A BUS OPERATED FOR THE PROVISION OF MASS TRANSPORTATION.

S 3. The vehicle and traffic law is amended by adding a new section 1177 to read as follows:

S 1177. OBSTRUCTING A BUS ROUTE. NO PERSON SHALL PARK A VEHICLE ON A ROADWAY WHICH IS A BUS ROUTE UTILIZED BY A TRANSIT BUS, INCLUDING BUS STOP AREAS, WHERE THE PARKING OF SUCH VEHICLE WILL INTERFERE WITH THE NORMAL OPERATION OF A TRANSIT BUS. FOR PURPOSES OF THIS SECTION, THE TERM "TRANSIT BUS" SHALL MEAN A BUS OPERATED FOR THE PROVISION OF MASS TRANSPORTATION.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through B of this act shall be as specifically set forth in the last section of such Parts.