

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:

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

12 PART A

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

16 1. Notwithstanding any inconsistent provision of any general, special
17 or local law or administrative code to the contrary, in any city which
18 heretofore or hereafter is authorized to establish an administrative
19 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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1 tuting parking, standing or stopping violations, or to adjudicate the
2 liability of owners for violations of subdivision (d) of section eleven
3 hundred eleven of this chapter in accordance with section eleven hundred
4 eleven-a of this chapter, [or] to adjudicate the liability of owners for
5 violations of toll collection regulations as defined in and in accord-
6 ance with the provisions of section two thousand nine hundred eighty-
7 five of the public authorities law and sections sixteen-a, sixteen-b and
8 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
9 hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS IN ACCORDANCE WITH
10 SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER FOR VIOLATIONS OF BUS
11 LANE RESTRICTIONS AS DEFINED IN SUCH SECTION, such tribunal and the
12 rules and regulations pertaining thereto shall be constituted in
13 substantial conformance with the following sections.

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

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

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

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

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

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

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

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

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

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

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

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

42 1-a. Fines and penalties. Whenever a plea of not guilty has been
43 entered, or the bureau has been notified that an allegation of liability
44 in accordance with section eleven hundred eleven-a of this chapter or an
45 allegation of liability in accordance with section two thousand nine
46 hundred eighty-five of the public authorities law or sections sixteen-a,
47 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
48 laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORD-
49 ANCE WITH SECTION ELEVEN HUNDRED ELEVEN-B OF THIS CHAPTER, is being
50 contested, by a person in a timely fashion and a hearing upon the merits
51 has been demanded, but has not yet been held, the bureau shall not issue
52 any notice of fine or penalty to that person prior to the date of the
53 hearing.

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

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

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

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

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

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

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

31 S 9. Subparagraph (i) of paragraph a of subdivision 5-a of section 401
32 of the vehicle and traffic law, as amended by chapter 496 of the laws of
33 1990 and designated by chapter 373 of the laws of 1994, is amended to
34 read as follows:

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

1 ance or answer has been made or in the case of an administrative tribu-
2 nal that he has complied with the rules and regulations of said tribunal
3 following entry of a final decision. Where an application is denied
4 pursuant to this section, the commissioner may, in his discretion, deny
5 a registration or renewal application to any other person for the same
6 vehicle and may deny a registration or renewal application for any other
7 motor vehicle registered in the name of the applicant where the commis-
8 sioner has determined that such registrant's intent has been to evade
9 the purposes of this subdivision and where the commissioner has reason-
10 able grounds to believe that such registration or renewal will have the
11 effect of defeating the purposes of this subdivision. Such denial shall
12 only remain in effect as long as the summonses remain unanswered, or in
13 the case of an administrative tribunal, the registrant fails to comply
14 with the rules and regulations following entry of a final decision.

15 S 10. The vehicle and traffic law is amended by adding a new section
16 1111-b to read as follows:

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

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

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

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

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

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

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

1 POPULATION OF ONE MILLION OR MORE AND IN CONSULTATION WITH THE APPLICA-
2 BLE MASS TRANSIT AGENCY.

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

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

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

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

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

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

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

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

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

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

8 (II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU
9 OF THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION
10 CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO
11 SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE
12 IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION,
13 TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL,
14 LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH
15 BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.
16 2. FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH ONE OF THIS
17 SUBDIVISION SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN
18 THIS SECTION.

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

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

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

30 S 11. The opening paragraph of subdivision 1 of section 1809 of the
31 vehicle and traffic law, as amended by section 2 of part DD of chapter
32 56 of the laws of 2008, is amended to read as follows:

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

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

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

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

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

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

18 S 14. This act shall take effect on the one hundred eightieth day
19 after it shall have become a law; provided, however, that the amendments
20 to subdivision 1 of section 235 of the vehicle and traffic law made by
21 section one of this act; the amendments to subdivision 1 of section 236
22 of the vehicle and traffic law made by section two of this act; the
23 amendments to subdivision 1 of section 239 of the vehicle and traffic
24 law made by section four of this act; the amendments to subdivision 4 of
25 section 239 of the vehicle and traffic law made by section five of this
26 act; the amendments to subdivisions 1, 1-a, and 2 of section 240 of the
27 vehicle and traffic law made by sections six and seven of this act; the
28 amendments to subdivisions 1 and 2 of section 241 of the vehicle and
29 traffic law made by section eight of this act; the amendments to para-
30 graph (a) of subdivision 5-a of section 401 of the vehicle and traffic
31 law made by section nine of this act; and the amendments to subdivision
32 1 of section 1809 of the vehicle and traffic law made by sections eleven
33 and twelve of this act shall not affect the repeal or expiration of such
34 provisions and shall be deemed to repeal or expire therewith; and
35 further provided that any rules necessary for the implementation of this
36 act on its effective date shall be promulgated on or before such date.

37

PART B

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

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

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

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

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

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

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

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

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

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

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

30 S 3. The vehicle and traffic law is amended by adding a new section
31 1177 to read as follows:

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

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

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

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