

3739

2009-2010 Regular Sessions

I N S E N A T E

March 30, 2009

Introduced by Sen. DILAN -- 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 administrative code of the city of New York, in relation to a program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic control indications in certain counties and cities; to amend chapter 746 of the laws of 1988 amending the vehicle and traffic law, the general municipal law and the public officers law relating to the civil liability of vehicle owners for traffic control signal violations, in relation to the effectiveness of such chapter; to amend local law number 46 of the city of New York for the year 1989 amending the administrative code of the city of New York, relating to civil liability of vehicle owners for traffic control signal violations, in relation to the effectiveness thereof; and to repeal certain provisions of the vehicle and traffic law and the administrative code of the city of New York relating to an owner liability demonstration program

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

1 Section 1. Subdivisions (a), (b), (d), (e), (g), (h) and (j) of  
2 section 1111-a of the vehicle and traffic law, subdivisions (a), (b) and  
3 (d) as amended by chapter 658 of the laws of 2006, subdivision (e) as  
4 amended by chapter 479 of the laws of 1994 and subdivisions (g), (h) and  
5 (j) as added by chapter 746 of the laws of 1988, are amended to read as  
6 follows:  
7 (a) 1. Notwithstanding any other provision of law, each city with a  
8 population of [one million] NINETY THOUSAND or more [is] OR COUNTY WITH  
9 A POPULATION OF NINE HUNDRED THOUSAND OR MORE IS hereby authorized and  
10 empowered to adopt and amend a local law or ordinance establishing a  
11 [demonstration] program imposing monetary liability on the owner of a  
12 vehicle for failure of an operator thereof to comply with traffic-con-

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

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1 trol indications in such city OR COUNTY in accordance with the  
2 provisions of this section. [Such demonstration program shall empower a  
3 city to install and operate traffic-control signal photo violation-mon-  
4 itoring devices at no more than one hundred intersections within such  
5 city at any one time.]

6 2. Such [demonstration] program shall utilize necessary technologies  
7 to ensure, to the extent practicable, that photographs produced by such  
8 traffic-control signal photo violation-monitoring systems shall not  
9 include images that identify the driver, the passengers, or the contents  
10 of the vehicle. Provided, however, that no notice of liability issued  
11 pursuant to this section shall be dismissed solely because a photograph  
12 or photographs allow for the identification of the contents of a vehi-  
13 cle, provided that such city OR COUNTY has made a reasonable effort to  
14 comply with the provisions of this paragraph.

15 (b) In any city OR COUNTY which has adopted a local law or ordinance  
16 pursuant to subdivision (a) of this section, the owner of a vehicle  
17 shall be liable for a penalty imposed pursuant to this section if such  
18 vehicle was used or operated with the permission of the owner, express  
19 or implied, in violation of subdivision (d) of section eleven hundred  
20 eleven of this article, and such violation is evidenced by information  
21 obtained from a traffic-control signal photo violation-monitoring  
22 system; provided however that no owner of a vehicle shall be liable for  
23 a penalty imposed pursuant to this section where the operator of such  
24 vehicle has been convicted of the underlying violation of subdivision  
25 (d) of section eleven hundred eleven of this article.

26 (d) A certificate, sworn to or affirmed by a technician employed by  
27 the city OR COUNTY in which the charged violation occurred, or a facsim-  
28 ile thereof, based upon inspection of photographs, microphotographs,  
29 videotape or other recorded images produced by a traffic-control signal  
30 photo violation-monitoring system, shall be prima facie evidence of the  
31 facts contained therein. Any photographs, microphotographs, videotape or  
32 other recorded images evidencing such a violation shall be available for  
33 inspection in any proceeding to adjudicate the liability for such  
34 violation pursuant to a local law or ordinance adopted pursuant to this  
35 section.

36 (e) An owner liable for a violation of subdivision (d) of section  
37 eleven hundred eleven of this article pursuant to a local law or ordi-  
38 nance adopted pursuant to this section shall be liable for monetary  
39 penalties in accordance with a schedule of fines and penalties to be set  
40 forth in such local law or ordinance, except that in a city which, by  
41 local law, has authorized the adjudication of such owner liability by a  
42 parking violations bureau, such schedule shall be promulgated by such  
43 bureau, AND IN A COUNTY WHICH, BY LOCAL LAW, HAS AUTHORIZED THE ADJUDI-  
44 CATION OF SUCH OWNER LIABILITY BY A TRAFFIC AND PARKING VIOLATIONS AGEN-  
45 CY, SUCH SCHEDULE MAY BE PROMULGATED BY THE BOARD OF JUDGES OF THE  
46 DISTRICT COURT FOR SUCH COUNTY, PURSUANT TO SUBDIVISION ONE OF SECTION  
47 TWENTY-FOUR HUNDRED EIGHT OR SUBDIVISION ONE OF SECTION TWENTY-FOUR  
48 HUNDRED ELEVEN OF THE UNIFORM DISTRICT COURT ACT. The liability of the  
49 owner pursuant to this section shall not exceed [fifty] ONE HUNDRED  
50 dollars for each violation; provided, however, that such local law or  
51 ordinance may provide for an additional penalty not in excess of twen-  
52 ty-five dollars for each violation for the failure to respond to a  
53 notice of liability within the prescribed time period.

54 (g) 1. A notice of liability shall be sent by first class mail to each  
55 person alleged to be liable as an owner for a violation of subdivision  
56 (d) of section eleven hundred eleven of this article pursuant to this

1 section. Personal delivery on the owner shall not be required. A manual  
2 or automatic record of mailing prepared in the ordinary course of busi-  
3 ness shall be prima facie evidence of the facts contained therein.

4 2. A notice of liability shall contain the name and address of the  
5 person alleged to be liable as an owner for a violation of subdivision  
6 (d) of section eleven hundred eleven of this article pursuant to this  
7 section, the registration number of the vehicle involved in such  
8 violation, the location where such violation took place, the date and  
9 time of such violation and the identification number of the camera which  
10 recorded the violation or other document locator number.

11 3. The notice of liability shall contain information advising the  
12 person charged of the manner and the time in which he may contest the  
13 liability alleged in the notice. Such notice of liability shall also  
14 contain a warning to advise the persons charged that failure to contest  
15 in the manner and time provided shall be deemed an admission of liabil-  
16 ity and that a default judgment may be entered thereon.

17 4. The notice of liability shall be prepared and mailed by the city OR  
18 COUNTY having jurisdiction over the intersection where the violation  
19 occurred, or by any other entity authorized by the city OR COUNTY to  
20 prepare and mail such notification of violation.

21 (h) Adjudication of the liability imposed upon owners by this section  
22 shall be by a traffic violations bureau OR TRAFFIC AND PARKING  
23 VIOLATIONS AGENCY established pursuant to section three hundred seventy  
24 of the general municipal law or, if there be none, by the court having  
25 jurisdiction over traffic infractions, except that any city OR COUNTY  
26 which has established an administrative tribunal to hear and determine  
27 complaints of traffic infractions constituting parking, standing or  
28 stopping violations, OR AN ADMINISTRATIVE TRIBUNAL TO ADJUDICATE THE  
29 LIABILITY IMPOSED BY THIS SECTION, may, by local law, authorize such  
30 adjudication by such tribunal. WHEN A COUNTY HAS ESTABLISHED A PROGRAM  
31 UNDER THIS SECTION, AND WHEN ADJUDICATION IS BY A COURT HAVING JURISDIC-  
32 TION OVER TRAFFIC INFRACTIONS, ALL FINES AND PENALTIES COLLECTED UNDER  
33 SUCH PROGRAM SHALL BE MADE TO THE COUNTY TREASURER WITHIN THE FIRST TEN  
34 DAYS OF THE MONTH FOLLOWING COLLECTION.

35 (j) 1. In a city OR A COUNTY where the adjudication of liability  
36 imposed upon owners pursuant to this section is by a traffic violations  
37 bureau, A TRAFFIC AND PARKING VIOLATIONS AGENCY or a court having juris-  
38 diction, an owner who is a lessor of a vehicle to which a notice of  
39 liability was issued pursuant to subdivision (g) of this section shall  
40 not be liable for the violation of subdivision (d) of section eleven  
41 hundred eleven of this article, provided that he or she sends to the  
42 traffic violations bureau, TRAFFIC AND PARKING VIOLATIONS AGENCY or  
43 court having jurisdiction a copy of the rental, lease or other such  
44 contract document covering such vehicle on the date of the violation,  
45 with the name and address of the lessee clearly legible, within thirty-  
46 seven days after receiving notice from the TRAFFIC VIOLATIONS bureau,  
47 TRAFFIC AND PARKING VIOLATIONS AGENCY or court of the date and time of  
48 such violation, together with the other information contained in the  
49 original notice of liability. Failure to send such information within  
50 such thirty-seven day time period shall render the owner liable for the  
51 penalty prescribed by this section. Where the lessor complies with the  
52 provisions of this paragraph, the lessee of such vehicle on the date of  
53 such violation shall be deemed to be the owner of such vehicle for  
54 purposes of this section, shall be subject to liability for the  
55 violation of subdivision (d) of section eleven hundred eleven of this

1 article pursuant to this section and shall be sent a notice of liability  
2 pursuant to subdivision (g) of this section.

3 2. (i) In a city OR A COUNTY which, by local law, has authorized the  
4 adjudication of liability imposed upon owners by this section by a park-  
5 ing violations bureau, an owner who is a lessor of a vehicle to which a  
6 notice of liability was issued pursuant to subdivision (g) of this  
7 section shall not be liable for the violation of subdivision (d) of  
8 section eleven hundred eleven of this article, provided that:

9 (A) prior to the violation, the lessor has filed with the bureau in  
10 accordance with the provisions of section two hundred thirty-nine of  
11 this chapter; and

12 (B) within thirty-seven days after receiving notice from the bureau of  
13 the date and time of a liability, together with the other information  
14 contained in the original notice of liability, the lessor submits to the  
15 bureau the correct name and address of the lessee of the vehicle identi-  
16 fied in the notice of liability at the time of such violation, together  
17 with such other additional information contained in the rental, lease or  
18 other contract document, as may be reasonably required by the bureau  
19 pursuant to regulations that may be promulgated for such purpose.

20 (ii) Failure to comply with clause (B) of subparagraph (i) of this  
21 paragraph shall render the owner liable for the penalty prescribed in  
22 this section.

23 (iii) Where the lessor complies with the provisions of this paragraph,  
24 the lessee of such vehicle on the date of such violation shall be deemed  
25 to be the owner of such vehicle for purposes of this section, shall be  
26 subject to liability for such violation pursuant to this section and  
27 shall be sent a notice of liability pursuant to subdivision (g) of this  
28 section.

29 S 2. Subdivision (m) of section 1111-a of the vehicle and traffic law  
30 is REPEALED.

31 S 3. Section 17 of chapter 746 of the laws of 1988 amending the vehi-  
32 cle and traffic law, the general municipal law and the public officers  
33 law relating to the civil liability of vehicle owners for traffic  
34 control signal violations, as amended by chapter 667 of the laws of  
35 2004, is amended to read as follows:

36 S 17. This act shall take effect on the thirtieth day after it shall  
37 have become a law [and shall remain in full force and effect until  
38 December 1, 2009 when upon such date the amendments and provisions made  
39 by this act shall be deemed repealed; provided, however, any such local  
40 laws as may be enacted pursuant to this act shall remain in full force  
41 and effect only until the expiration on December 1, 2009].

42 S 4. Subdivisions (a), (f) and (n) of section 19-210 of the adminis-  
43 trative code of the city of New York, subdivision (a) as amended by  
44 chapter 658 of the laws of 2006, subdivision (f) as amended by local law  
45 number 29 of the city of New York for the year 1994, and subdivision (n)  
46 as amended by local law number 25 of the city of New York for the year  
47 1994, are amended to read as follows:

48 (a) 1. Notwithstanding any other provision of law, the parking  
49 violations bureau is hereby authorized and empowered to establish a  
50 [demonstration] program imposing monetary liability on the owner of a  
51 vehicle for failure of an operator thereof to comply with traffic-con-  
52 trol indications in accordance with the provisions of this section. [The  
53 department of transportation, for purposes of implementation of such  
54 program, shall be authorized to install and operate traffic-control  
55 signal photo violation-monitoring devices at no more than one hundred  
56 intersections at any one time.]

1 2. Such [demonstration] program shall utilize necessary technologies  
2 to ensure, to the extent practicable, that photographs produced by such  
3 traffic-control signal photo violation-monitoring systems shall not  
4 include images that identify the driver, the passengers, or the contents  
5 of the vehicle. Provided, however, that no notice of liability issued  
6 pursuant to this section shall be dismissed solely because a photograph  
7 or photographs allow for the identification of the contents of a vehi-  
8 cle, provided that such city has made a reasonable effort to comply with  
9 the provisions of this paragraph.

10 (f) An owner liable for a violation of subdivision (d) of section  
11 eleven hundred eleven of the vehicle and traffic law pursuant to this  
12 section shall be liable for monetary penalties in accordance with a  
13 schedule of fines and penalties to be promulgated by such bureau. The  
14 liability of the owner pursuant to this section shall not exceed [fifty]  
15 ONE HUNDRED dollars for each violation; provided however that such  
16 bureau may provide for an additional penalty not in excess of twenty-  
17 five dollars for each violation for the failure to respond to a notice  
18 of liability within the prescribed time period. Such bureau shall adju-  
19 dicate liability imposed by this section.

20 (n) On or before September 1, 1989, and every four months thereafter,  
21 until such time as the [demonstration] program authorized in subdivision  
22 (a) hereof shall be fully operational, the commissioner of transporta-  
23 tion shall submit a written report to the council on the status of said  
24 [demonstration] program. Such report shall include, but not be limited  
25 to, the locations selected for inclusion in the [demonstration] program  
26 and the cost to the city, both individually and collectively, of each  
27 location included in such [demonstration] project.

28 S 5. Subdivision (o) of section 19-210 of the administrative code of  
29 the city of New York is REPEALED.

30 S 6. Section 2 of local law number 46 of the city of New York for the  
31 year 1989 amending the administrative code of the city of New York  
32 relating to civil liability of vehicle owners for traffic control signal  
33 violations, as amended by chapter 667 of the laws of 2004, is amended to  
34 read as follows:

35 S 2. This local law shall take effect immediately [and shall expire on  
36 December 1, 2009].

37 S 7. This act shall take effect immediately.