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

463

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the vehicle and traffic law, in relation to creating a traffic adjudication appeals bureau within the executive department, and repealing section 228 of the vehicle and traffic law, relating to administrative review of hearing officer determinations by department of motor vehicles appeals boards

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

Section 1. The executive law is amended by adding a new article 5-A to read as follows:

ARTICLE 5-A

TRAFFIC ADJUDICATION APPEALS BUREAU

SECTION 80. APPELLATE ADMINISTRATIVE REVIEW OF TRAFFIC INFRACTION ADJUDICATIONS OF CERTAIN TRAFFIC VIOLATIONS BUREAUS.
81. DIRECTOR OF THE TRAFFIC ADJUDICATION APPEALS BUREAU; POWERS AND DUTIES.
82. APPEALS OFFICERS OF THE TRAFFIC ADJUDICATION APPEALS BUREAU.
83. RIGHT OF APPEAL TO THE TRAFFIC ADJUDICATION APPEALS BUREAU.
84. REVIEW AND DETERMINATION BY APPEALS BOARD OF THE TRAFFIC ADJUDICATION APPEALS BUREAU.
85. APPEAL PROCEDURES FOR APPEALS TO THE TRAFFIC ADJUDICATION APPEALS BUREAU.

S 80. APPELLATE ADMINISTRATIVE REVIEW OF TRAFFIC INFRACTION ADJUDICATIONS OF CERTAIN TRAFFIC VIOLATIONS BUREAUS. 1. (A) THERE IS HEREBY CREATED WITHIN THE EXECUTIVE DEPARTMENT A SEPARATE BUREAU WHICH SHALL BE KNOWN AS THE "TRAFFIC ADJUDICATION APPEALS BUREAU". THE APPEALS BUREAU SHALL RECEIVE, CONSIDER AND DETERMINE APPEALS FROM DETERMINATIONS OF HEARING OFFICERS OF TRAFFIC VIOLATIONS BUREAUS DESCRIBED IN ARTICLE

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

LBD03814-01-9

TWO-A OF THE VEHICLE AND TRAFFIC LAW. THE CENTRAL OFFICE OF THE BUREAU SHALL BE LOCATED IN ALBANY, AND REGIONAL OFFICES OF THE BUREAU SHALL BE ESTABLISHED AND MAINTAINED IN SUCH NUMBERS AND LOCATIONS AS THE DIRECTOR OF THE BUREAU MAY DETERMINE WITHIN AMOUNTS MADE AVAILABLE BY APPROPRIATION.

(B) THE HEAD OF THE APPEALS BUREAU SHALL BE A DIRECTOR, WHO SHALL BE APPOINTED BY THE GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, TO SERVE FOR A TERM OF SIX YEARS, AND UNTIL HIS OR HER SUCCESSOR HAS BEEN APPOINTED. SUCH DIRECTOR SHALL RECEIVE A SALARY IN THE SAME AMOUNT AS THAT RECEIVED BY A STATE OFFICER DESIGNATED IN PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION ONE HUNDRED SIXTY-NINE OF THIS CHAPTER.

2. (A) IN LIEU OF, OR IN ADDITION TO, ANY OTHER GROUNDS FOR APPEAL, A PERSON MAY APPEAL TO THE APPEALS BUREAU ON THE GROUND THAT ONE OR MORE MINIMUM PROCEDURES, ESTABLISHED BY OR PURSUANT TO LAW, FOR THE CONDUCT OF A HEARING FOR THE ADJUDICATION OF A TRAFFIC INFRACTION HAVE NOT BEEN FOLLOWED. WHERE THE APPEALS BUREAU FINDS THAT ONE OR MORE OF SUCH MINIMUM PROCEDURES FOR THE CONDUCT OF A HEARING FOR THE ADJUDICATION OF A TRAFFIC INFRACTION, ESTABLISHED BY OR PURSUANT TO SUBDIVISION ONE OF SECTION TWO HUNDRED TWENTY-SEVEN OF THE VEHICLE AND TRAFFIC LAW, HAVE NOT BEEN FOLLOWED BY THE HEARING OFFICER WHO ADJUDICATED THE TRAFFIC INFRACTION, OR HAVE NOT BEEN FOLLOWED BY THE TRAFFIC VIOLATIONS BUREAU OR BY THE DEPARTMENT OR COMMISSIONER OF MOTOR VEHICLES: (I) IT SHALL AWARD THE APPELLANT HIS OR HER EXPENSES, INCLUDING AN AMOUNT FOR THE LOST TIME, INCONVENIENCE AND ANNOYANCE, AS WELL AS OUT-OF-POCKET COSTS AND FEES, IN TAKING SUCH APPEAL TO IT; HOWEVER, THE AMOUNT OF SUCH AWARD FIXED BY IT SHALL NOT EXCEED THE AMOUNT OF THE ORIGINAL FINE, AND PAYMENT OF SUCH AWARD TO THE APPELLANT SHALL NOT BE MADE BY IT BUT SHALL BE MADE BY THE DEPARTMENT OF MOTOR VEHICLES UPON THE PRESENTATION TO SUCH DEPARTMENT OF A VOUCHER ISSUED BY THE APPEALS BUREAU; AND (II) IF THE APPEALS BUREAU HAS FOUND OTHER INSTANCES WHERE THE SAME HEARING OFFICER, BUREAU, COMMISSIONER OR DEPARTMENT HAS NOT FOLLOWED THE REQUIRED MINIMUM PROCEDURES ESTABLISHED BY OR PURSUANT TO LAW FOR THE CONDUCT OF A HEARING, THE APPEALS BUREAU MAY ISSUE AN ORDER TO SUCH OFFICER, BUREAU, COMMISSIONER AND/OR DEPARTMENT, TO CEASE AND DESIST FROM SUCH IMPROPER CONDUCT AND TO COMPLY WITH MINIMUM PROCEDURES ESTABLISHED BY OR PURSUANT TO LAW.

(B) THE APPEALS BUREAU SHALL HAVE STANDING TO BRING A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES TO COMPEL ANY SUCH OFFICER, BUREAU, COMMISSIONER AND/OR DEPARTMENT TO COMPLY WITH ITS CEASE AND DESIST ORDERS. THE ISSUANCE OF A CEASE AND DESIST ORDER, OR THE COMMENCEMENT OF AN ARTICLE SEVENTY-EIGHT PROCEEDING, SHALL NOT BE A PREREQUISITE TO THE TAKING OF ANY ACTION OR ENFORCEMENT OF ANY REMEDY OTHERWISE PERMITTED, BUT SHALL BE CUMULATIVE TO ANY OTHER SUCH ACTION OR REMEDY.

(C) THE APPEALS BUREAU IS HEREBY EMPOWERED TO COMPEL THE COMMISSIONER AND DEPARTMENT OF MOTOR VEHICLES TO PRODUCE RECORDS AND OTHER EVIDENCE RELEVANT AND MATERIAL TO ANY APPEAL, OR RELEVANT AND MATERIAL TO THE MAKING OF ANY FINDING AUTHORIZED TO BE MADE BY THIS ARTICLE.

S 81. DIRECTOR OF THE TRAFFIC ADJUDICATION APPEALS BUREAU; POWERS AND DUTIES. THE DIRECTOR OF THE TRAFFIC ADJUDICATION APPEALS BUREAU SHALL BE THE ADMINISTRATIVE HEAD OF THE BUREAU AND SHALL:

1. APPOINT ONE OR MORE GROUPS OF THREE OR MORE APPEALS OFFICERS EACH, WHICH SHALL CONSTITUTE ONE OR MORE APPEALS BOARDS UNDER THE JURISDICTION, SUPERVISION AND CONTROL OF THE APPEALS BUREAU, AND MAY PRESCRIBE THEIR POWERS AND DUTIES AND FIX THEIR COMPENSATION WITHIN THE AMOUNT

APPROPRIATED THEREFOR, SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT;

2. SELECT A CHAIRMAN FOR EACH APPEALS BOARD FROM THE GROUP OF APPEALS OFFICERS SO APPOINTED;

3. DESIGNATE SUCH OTHER PERSONNEL, SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENT, AS MAY BE NECESSARY TO ASSIST THE DIRECTOR OF THE APPEALS BUREAU, OR ASSIST AN APPEALS BOARD, IN CARRYING OUT HIS OR ITS DUTIES.

S 82. APPEALS OFFICERS OF THE TRAFFIC ADJUDICATION APPEALS BUREAU. EACH APPEALS OFFICER SHALL HAVE BEEN ADMITTED TO THE PRACTICE OF LAW IN THIS STATE AND SHALL NOT BE AN EMPLOYEE OF THE DEPARTMENT OF MOTOR VEHICLES OR DEPARTMENT OF TRANSPORTATION.

S 83. RIGHT OF APPEAL TO THE TRAFFIC ADJUDICATION APPEALS BUREAU. 1. ANY PERSON WHO IS AGGRIEVED BY A DETERMINATION OF A HEARING OFFICER OF A TRAFFIC VIOLATIONS BUREAU DESCRIBED IN ARTICLE TWO-A OF THE VEHICLE AND TRAFFIC LAW MAY APPEAL SUCH DETERMINATION PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

2. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A TRANSCRIPT OF THE HEARING RESULTING IN THE DETERMINATION APPEALED FROM MUST BE SUBMITTED TO THE TRAFFIC ADJUDICATION APPEALS BUREAU ON ANY SUCH APPEAL.

3. IF THE ONLY ISSUE RAISED ON APPEAL IS THE APPROPRIATENESS OF THE PENALTY IMPOSED, THE APPELLANT, IN HIS DISCRETION, MAY SUBMIT SUCH APPEAL WITHOUT A TRANSCRIPT OF THE HEARING. IN SUCH EVENT, THE DECISION OF THE APPEALS BOARD MAY BE BASED SOLELY ON THE APPEAL PAPERS AND THE RECORDS OF THE DEPARTMENT OF MOTOR VEHICLES AND OF THE TRAFFIC ADJUDICATION APPEALS BUREAU, AND SUCH DECISION SHALL NOT BE SUBJECT TO JUDICIAL REVIEW.

4. WHERE A TRANSCRIPT OF THE HEARING IS SUBMITTED AT THE TIME AN APPEAL IS FILED, THE DETERMINATION OF THE APPEALS BOARD WILL BE SUBJECT TO JUDICIAL REVIEW AS PRESCRIBED IN SUBDIVISION FIVE OF SECTION EIGHTY-FIVE OF THIS ARTICLE.

S 84. REVIEW AND DETERMINATION BY APPEALS BOARD OF THE TRAFFIC ADJUDICATION APPEALS BUREAU. 1. EACH APPEAL FILED PURSUANT TO THIS ARTICLE SHALL BE REVIEWED BY AN APPEALS BOARD, WHICH SHALL MAKE A DETERMINATION OF SUCH APPEAL, AND SHALL CAUSE AN APPROPRIATE ORDER TO BE ENTERED IN THE RECORDS OF THE TRAFFIC ADJUDICATION APPEALS BUREAU. THE TRAFFIC ADJUDICATION APPEALS BUREAU SHALL TRANSMIT A COPY OF SUCH ORDER TO THE COMMISSIONER OF MOTOR VEHICLES, AND SUCH COMMISSIONER SHALL CAUSE SUCH ORDER TO BE ENTERED IN THE RECORDS OF THE DEPARTMENT OF MOTOR VEHICLES.

2. NO APPEAL SHALL BE REVIEWED IF IT IS FILED MORE THAN THIRTY DAYS AFTER NOTICE WAS GIVEN OF THE DETERMINATION APPEALED FROM. THE APPELLANT SHALL SUBMIT TOGETHER WITH SUCH APPEAL A COPY OF THE NOTICE OF DETERMINATION ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES SHOWING THE DATE THE NOTICE OF DETERMINATION WAS GIVEN.

S 85. APPEAL PROCEDURES FOR APPEALS TO THE TRAFFIC ADJUDICATION APPEALS BUREAU. 1. ANY PERSON DESIRING TO FILE AN APPEAL FROM AN ADVERSE DETERMINATION PURSUANT TO THIS ARTICLE, SHALL DO SO IN A FORM AND MANNER PROVIDED BY THE DIRECTOR OF THE TRAFFIC ADJUDICATION APPEALS BUREAU AFTER SUCH DIRECTOR CONSULTS WITH THE COMMISSIONER OF MOTOR VEHICLES. THE TRANSCRIPT OF ANY HEARING WHICH FORMED THE BASIS FOR SUCH DETERMINATION WILL BE REVIEWED ONLY IF IT IS SUBMITTED BY THE APPELLANT. AN APPEAL SHALL NOT BE DEEMED TO BE FINALLY SUBMITTED UNTIL THE APPELLANT HAS SUBMITTED ALL FORMS OR DOCUMENTS REQUIRED TO BE SUBMITTED BY THE DIRECTOR OR BY THIS ARTICLE. IF THE APPELLANT IS NOT ABLE TO SUBMIT ANY REQUIRED FORM OR DOCUMENT BECAUSE OF THE REFUSAL OR FAILURE OF THE DEPARTMENT OF MOTOR VEHICLES TO SUPPLY SUCH FORM OR DOCUMENT TO THE

APPELLANT UPON THE APPELLANT'S REQUEST AND WILLINGNESS TO TENDER ANY AUTHORIZED FEE REQUIRED BY SUCH DEPARTMENT, THE APPELLANT SHALL FURNISH AN AFFIDAVIT OF SUCH FACT TO THE DIRECTOR AND THE DIRECTOR SHALL COMPEL THE DEPARTMENT OF MOTOR VEHICLES TO PRODUCE SUCH REQUIRED RECORDS, OR AN AUTHENTICATED COPY THEREOF, FREE OF CHARGE FOR USE BY THE TRAFFIC ADJUDICATION APPEALS BUREAU OR AN APPEALS BOARD THEREOF UPON THE APPEAL. IN SUCH CASE, AN APPEAL SHALL BE DEEMED FINALLY SUBMITTED AS OF THE DATE THE DIRECTOR RECEIVED THE AFFIDAVIT FROM THE APPELLANT THAT THE APPELLANT WAS UNABLE TO OBTAIN A REQUIRED RECORD FROM THE DEPARTMENT OF MOTOR VEHICLES, PROVIDED THAT ALL OTHER FORMS AND DOCUMENTS REQUIRED TO BE SUBMITTED HAVE BEEN SUBMITTED OR SIMILAR AFFIDAVIT GIVEN WITH RESPECT TO INABILITY TO OBTAIN SAME FROM THE DEPARTMENT OF MOTOR VEHICLES.

2. TRANSCRIPTS OF THE RECORD OF ANY HEARING MAY BE OBTAINED AT THE COST TO THE DEPARTMENT OF MOTOR VEHICLES, IF PREPARED BY SUCH DEPARTMENT, OR AT THE RATE SPECIFIED IN THE CONTRACT BETWEEN SUCH DEPARTMENT AND THE CONTRACTOR, IF PREPARED BY A PRIVATE CONTRACTOR. THE AMOUNT PAID AT SUCH COST OR RATE BY A PERSON CONVICTED WHO SUBMITS A TRANSCRIPT OF THE HEARING WHICH RESULTED IN THE DETERMINATION, UPON AN APPEAL FROM SUCH DETERMINATION, SHALL BE REFUNDED BY THE DEPARTMENT OF MOTOR VEHICLES UPON THE RECEIPT BY IT OF AN ORDER, OR COPY THEREOF, FROM THE TRAFFIC ADJUDICATION APPEALS BUREAU DISMISSING THE CHARGES UPON THE DETERMINATION OF SUCH APPEAL.

3. THE FEE FOR FILING AN APPEAL SHALL BE TEN DOLLARS PAYABLE TO THE TRAFFIC ADJUDICATION APPEALS BUREAU. NO APPEAL SHALL BE ACCEPTED UNLESS THE REQUIRED FEE HAS BEEN PAID TO SUCH BUREAU. SUCH FEES SHALL BE PAID BY SUCH APPEALS BUREAU TO THE DEPARTMENT OF AUDIT AND CONTROL TO THE CREDIT OF THE JUSTICE COURT FUND. AFTER SUCH AUDIT AS SHALL BE REQUIRED BY THE COMPTROLLER, SUCH FEES SHALL BE CREDITED TO THE GENERAL FUND OF THE STATE.

4. (A) WHENEVER A DETERMINATION HAS NOT BEEN MADE WITHIN THIRTY DAYS AFTER AN APPEAL HAS BEEN FINALLY SUBMITTED, A STAY OF EXECUTION WILL BE DEEMED GRANTED BY OPERATION OF LAW, AND THE LICENSE, CERTIFICATE, PERMIT OR PRIVILEGE AFFECTED WILL BE AUTOMATICALLY RESTORED PENDING FINAL DETERMINATION.

(B) THE COMMISSIONER OF MOTOR VEHICLES SHALL COOPERATE WITH THE DIRECTOR OF THE APPEALS BUREAU IN DEVISING MEANS OF COMMUNICATION BETWEEN THE DEPARTMENT OF MOTOR VEHICLES AND THE TRAFFIC ADJUDICATION APPEALS BUREAU TO EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS ARTICLE. SUCH MEANS MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, A COMPUTER NETWORK WHEREBY INFORMATION MAY BE SHARED, EXCHANGED AND/OR INPUTTED BY AND BETWEEN THE DEPARTMENT OF MOTOR VEHICLES AND THE TRAFFIC ADJUDICATION APPEALS BUREAU. IF SUCH A NETWORK IS ESTABLISHED, ANY NOTICE OR RECORD REQUIRED TO BE PRODUCED BY, OR SENT BY OR TO, THE DEPARTMENT OF MOTOR VEHICLES MAY BE TRANSMITTED BY MEANS OF SUCH NETWORK.

5. (A) NO DETERMINATION OF A HEARING OFFICER WHICH IS APPEALABLE UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE REVIEWED IN ANY COURT UNLESS AN APPEAL HAS BEEN FILED AND DETERMINED IN ACCORDANCE WITH THIS ARTICLE.

(B) A DETERMINATION OF THE APPEALS BOARD IN ANY CASE WHERE A TRANSCRIPT OF THE HEARING HAS BEEN SUBMITTED SHALL BE SUBJECT TO REVIEW PURSUANT TO THE PROVISIONS OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. PROVIDED, HOWEVER, A STATEMENT BY THE APPEALS OFFICER AT THE CONCLUSION OF THE HEARING INDICATING THAT THE CHARGES HAVE BEEN SUSTAINED AND ANNOUNCING THE PENALTY IMPOSED, TOGETHER WITH A SUMMARY OF THE REASONS THE APPEAL WAS DENIED BY THE APPEALS BOARD, SHALL CONSTITUTE SUFFICIENT FINDINGS FOR THE PURPOSE OF SUCH REVIEW.

S 2. Section 228 of the vehicle and traffic law is REPEALED and a new section 228 is added to read as follows:

S 228. ADMINISTRATIVE REVIEW. ADMINISTRATIVE REVIEW OF THE DETERMINATION OF A HEARING OFFICER SHALL BE HAD BY MEANS OF AN APPEAL TO THE TRAFFIC ADJUDICATION APPEALS BUREAU IN THE EXECUTIVE DEPARTMENT, AS PROVIDED IN ARTICLE FIVE-A OF THE EXECUTIVE LAW. THE COMMISSIONER AND DEPARTMENT SHALL COOPERATE AND RENDER ASSISTANCE: (A) TO ANY PERSON CONVICTED OF A TRAFFIC INFRACTION UPON THE DETERMINATION OF A HEARING OFFICER, WHO WISHES TO APPEAL SUCH DETERMINATION TO THE APPEALS BUREAU, BY PROVIDING FORMS, INSTRUCTIONS AND RECORDS, SUITABLE TO FILE SUCH APPEAL WITH THE APPEALS BUREAU, IN COOPERATION WITH THE REQUIREMENTS OF THE DIRECTOR OF THE APPEALS BUREAU; AND (B) TO THE DIRECTOR OF THE APPEALS BUREAU TO IMPLEMENT THE PURPOSES AND PROVISIONS OF ARTICLE FIVE-A OF THE EXECUTIVE LAW.

S 3. Subdivision 1 of section 227 of the vehicle and traffic law, as amended by chapter 337 of the laws of 1970, is amended to read as follows:

1. (A) Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the commissioner. The burden of proof shall be upon the people, and no charge may be established except by clear and convincing evidence. The commissioner [may] SHALL prescribe, by rule or regulation, the procedures for the conduct of such hearings.

(B) SUCH PROCEDURES FOR THE CONDUCT OF SUCH HEARINGS SHALL, AT A MINIMUM:

(I) PROHIBIT THE COMPILING OF PERIODIC STATISTICS ESTABLISHING CONVICTION RATES.

(II) PROHIBIT THE REVIEW OR RATING OF HEARING OFFICERS BASED UPON ANY CONVICTION RATE.

(III) PROHIBIT ANY REQUIREMENT THAT HEARING OFFICERS PROVIDE TO THE COMMISSIONER OR TO ADMINISTRATIVE OR SUPERVISORY EMPLOYEES OF THE DEPARTMENT GREATER OR ANY DIFFERENT JUSTIFICATION FOR THEIR DETERMINATIONS THAT THE CHARGES HAVE NOT BEEN ESTABLISHED FROM THEIR DETERMINATIONS THAT THE CHARGES HAVE BEEN ESTABLISHED.

(IV) PROHIBIT HEARING OFFICERS FROM USING LEADING QUESTIONS IN THE DIRECT EXAMINATION OF POLICE OFFICERS.

(V) REQUIRE THE HEARING OFFICER TO ADVISE THE ACCUSED OF HIS RIGHT TO REMAIN SILENT AND HIS RIGHT TO BE REPRESENTED BY COUNSEL, AND WHERE APPROPRIATE, TO EXPLAIN THE ELEMENTS OF THE OFFENSE AND AVAILABLE DEFENSES FOR AN ACCUSED WHO IS NOT REPRESENTED BY COUNSEL.

(VI) REQUIRE THAT THE RULES OF EVIDENCE BE ADHERED TO IN ALL PROCEEDINGS IN WHICH EITHER SIDE IS REPRESENTED BY COUNSEL.

S 4. a. The director of the traffic adjudication appeals bureau shall report annually on or before the thirty-first of January, beginning with the calendar year next succeeding the year this act takes effect, to the governor, the majority leader of the senate, and the speaker of the assembly, evaluating the functioning and operations of the new traffic adjudication appeals bureau created by this act.

b. Each annual report shall specifically address how well the implementation of this act alleviates the problems and criticisms of the former administrative adjudication system of the state department of motor vehicles, described by the task force on administrative adjudication of the New York state bar association in its report dated July 14, 1988.

c. Each such report also shall contain statistical tabulations and appropriate commentary thereon, showing, for each traffic violations bureau:

(i) the total number of appeals received by the new appeals bureau;

(ii) the number of appeals in which it was alleged that one or more minimum procedures, established by or pursuant to law, for the conduct of a hearing for the adjudication of a traffic infraction have not been followed and the number of such appeals in which these allegations were found to have any merit (the success rate) and where found to have merit, the total amount awarded to all appellants for their expenses, out-of-pocket costs and fees, pursuant to subparagraph (i) of paragraph (a) of subdivision 2 of section 80 of the executive law, as added by this act;

(iii) the number of cease and desist orders issued by the new appeals bureau pursuant to subparagraph (ii) of paragraph (a) of subdivision 2 of section 80 of the executive law, as added by this act, the reason or reasons such orders were issued, and the number of proceedings brought by the new appeals bureau, pursuant to article 78 of the civil practice law and rules, to enforce its cease and desist orders;

(iv) the number of, and a description of, any other enforcement or persuasion mechanisms utilized;

(v) an assessment of the degree of compliance by each traffic violations bureau with the minimum procedures established by or pursuant to law for the conduct of hearings for the adjudication of traffic infractions, based, in part, upon the number of complaints received and how such complaints were (or were not) resolved; and

(vi) any other relevant facts, statistics and commentary with respect to the foregoing.

In addition, the director of the traffic adjudication appeals bureau may propose to the legislature the consideration or enactment of such additional legislation as in his or her opinion will further address or alleviate the problems and criticisms found in the above-referenced report of the bar association task force.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and sections one through three of this act shall apply by the terms of this act only to appeals which are finally submitted or deemed to be finally submitted on or after the effective date of this act; provided, however, that the provisions of section 228 of the vehicle and traffic law repealed by section two of this act shall continue to apply to any appeal which is finally submitted or deemed to have been finally submitted to a department of motor vehicles appeals board before the effective date of this act, but only until such appeal is determined by such appeals board; and any remand ordered by a court of competent jurisdiction pursuant to a proceeding under article 78 of the civil practice law and rules which has not yet been re-submitted to a department of motor vehicles appeals board before the effective date of this act, shall be referred to the traffic adjudication appeals bureau in the executive department for redetermination pursuant to the order of remand.