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

5567

2009-2010 Regular Sessions

I N  S E N A T E

May 18, 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, in relation to surcharges for moving violations in school traffic safety and speed zones

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

Section 1. This act shall be known and may be cited as "Clarente's Law".

S 2. 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:

1. 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, 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:

(a) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a traffic infraction pursuant to article nine 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 twenty-five dollars.

(b) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a misdemeanor or felony pursuant to section eleven hundred ninety-two of this chapter, there shall be

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

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levied, in addition to any sentence required or permitted by law, a crime victim assistance fee in the amount of twenty-five dollars and a mandatory surcharge in accordance with the following schedule:

(i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars;

(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars.

(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 A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIMS ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION, 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.

(D)(I) WHENEVER:

(A) 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 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

(B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER,

THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) 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; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR (E) 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.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN

HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAPTER.

S 3. Subdivision 1 of section 1809 of the vehicle and traffic law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

1. (A) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime 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, parking or motor vehicle equipment 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 A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIMS ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars.

(B)(I) WHENEVER:

(A) 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 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

(B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER,

THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) 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; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR (E) 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.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAPTER.

S 4. Subdivision 1 of section 1809 of the vehicle and traffic law, as separately amended by chapter 16 of the laws of 1983 and chapter 62 of the laws of 1989, is amended to read as follows:

1. (A) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a

traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists, OR OTHER THAN A CONVICTION FOR WHICH A MANDATORY SURCHARGE AND CRIME VICTIMS ASSISTANCE FEE ARE LEVIED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars.

(B) (I) WHENEVER:

(A) 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 FOR A TRAFFIC INFRACTION UNDER THIS CHAPTER OR UNDER A LOCAL LAW, ORDINANCE, RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER; AND

(B) SUCH OFFENSE OR INFRACTION OCCURS WITHIN A SCHOOL TRAFFIC SAFETY AND SPEED ZONE WHEN A SCHOOL SPEED LIMIT IS IN EFFECT AS PROVIDED IN PARAGRAPHS ONE AND TWO OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER,

THERE SHALL BE LEVIED A CRIME VICTIM ASSISTANCE FEE IN THE AMOUNT OF FIVE DOLLARS AND A MANDATORY SURCHARGE IN THE AMOUNT OF SEVENTY-FIVE DOLLARS, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW.

(II) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO: (A) TRAFFIC INFRACTIONS INVOLVING STANDING, STOPPING, OR PARKING; (B) VIOLATIONS BY PEDESTRIANS OR BICYCLISTS; (C) 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; (D) AN INFRACTION PURSUANT TO ARTICLE NINE OF THIS CHAPTER; OR (E) 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.

(III) FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SCHOOL TRAFFIC SAFETY AND SPEED ZONE" SHALL MEAN A DISTANCE NOT TO EXCEED ONE THOUSAND THREE HUNDRED TWENTY FEET ON A HIGHWAY PASSING A SCHOOL BUILDING, ENTRANCE OR EXIT OF A SCHOOL ABUTTING ON THE HIGHWAY FOR WHICH A MAXIMUM SCHOOL SPEED LIMIT HAS BEEN ESTABLISHED AS AUTHORIZED IN SECTION SIXTEEN HUNDRED TWENTY, SIXTEEN HUNDRED TWENTY-TWO, SIXTEEN HUNDRED THIRTY, SIXTEEN HUNDRED FORTY-THREE OR SIXTEEN HUNDRED SIXTY-TWO-A OF THIS CHAPTER.

S 5. This act shall take effect immediately; provided that:

a. the amendments to subdivision one of section 1809 of the vehicle and traffic law made by section two of this act shall be subject to the expiration of such subdivision pursuant to section 406 of chapter 166 of the laws of 1991, as amended, when upon such date the provisions of section three of this act shall take effect; and

b. the amendments to subdivision one of section 1809 of the vehicle and traffic law made by section three of this act shall be subject to the expiration of such subdivision pursuant to section 17 of chapter 746 of the laws of 1988, as amended, when upon such date the provisions of section four of this act shall take effect.