

4211

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. BRENNAN, ORTIZ, GREENE, DINOWITZ, MAISEL,
DenDEKKER -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, COLTON,
GLICK, HOOPER, JACOBS, PHEFFER, ROBINSON, SCARBOROUGH, SWEENEY -- read
once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to wrongful
towing

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

1 Section 1. Paragraph (a) of subdivision 1 of section 241-a of the
2 vehicle and traffic law, as added by chapter 338 of the laws of 1987, is
3 amended to read as follows:
4 (a) Every city with a population of more than one million inhabitants
5 that has established a parking violations bureau shall establish, within
6 such bureau, a properly staffed complaint unit of public service repre-
7 sentatives to respond to complaints from any person who, after having
8 satisfied, by payment, adjudication, or administrative action, any fine
9 or penalty for a parking violation or after having proven that a fine or
10 penalty was wrongfully imposed on this person, receives a demand for
11 payment of the fine or penalty previously satisfied or wrongfully
12 imposed, [or] is denied any registration or renewal application by the
13 department of motor vehicles upon a certification from such parking
14 violations bureau based upon lack of payment of any fine or penalty
15 previously satisfied or wrongfully imposed OR WHOSE VEHICLE HAS BEEN
16 WRONGFULLY TOWED AS SUCH TERM IS DEFINED BY SECTION TWO HUNDRED
17 FORTY-ONE-B OF THIS ARTICLE. The complaint unit established under this
18 section shall accept complaints either in person or by certified mail,
19 return receipt requested. Each written demand for payment, other than
20 the first demand following issuance of the notice of violation, shall
21 advise the addressee of the existence of the complaint unit and the
22 procedure for submitting a complaint. Upon receipt of a complaint, if in
23 person, or within ten work days after receipt of a complaint if by mail,

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

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1 the complaint unit shall acknowledge receipt in writing and notify the
2 complainant of the procedure for further review. The complaint unit
3 shall, within thirty days after receiving a complaint in person or by
4 certified mail supported by the proof prescribed by this section, notify
5 the complainant that the payment has been credited to his or her record;
6 that the wrongful imposition has been removed from the complainant's
7 record; or that the information sent to the bureau fails to prove that
8 the fine or penalty was satisfied or that the imposition was wrongful,
9 in which case the reason or reasons shall be set forth.

10 S 2. Subdivision 4 of section 241-a of the vehicle and traffic law, as
11 amended by chapter 339 of the laws of 1987, is amended to read as
12 follows:

13 4. The proof that must be submitted in connection with a complaint
14 made under this section is, as appropriate, a copy of the receipt, money
15 order or front and back of cancelled check; a copy of a police report of
16 stolen vehicle or stolen or lost plates or proof of an insurance company
17 payment for a stolen vehicle, [or] a department of motor vehicles
18 receipt for surrendered plates OR A COPY OF A DECISION BY AN ADMINISTRA-
19 TIVE LAW JUDGE. As used in this section, a "wrongfully imposed" fine or
20 penalty shall mean a fine or penalty which is imposed after the respec-
21 tive vehicle has been stolen or after the license plates were stolen,
22 lost or surrendered to the department of motor vehicles.

23 S 3. The vehicle and traffic law is amended by adding a new section
24 241-b to read as follows:

25 S 241-B. WRONGFUL TOWING. 1. FOR PURPOSES OF THIS SECTION, WRONGFUL
26 TOWING SHALL MEAN THE TOWING OF A PERSON'S VEHICLE: (A) FOR A FINE OR
27 PENALTY FOR A PARKING VIOLATION PREVIOUSLY SATISFIED OR WRONGFULLY
28 IMPOSED AS DEFINED IN SECTION TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE;
29 (B) FOR A PARKING VIOLATION WHICH THE PERSON IS IN THE PROCESS OF
30 CONTESTING WITH THE PARKING VIOLATIONS BUREAU; (C) FOR INACCURATELY
31 BEING DEEMED A SCOFFLAW; (D) FOR ILLEGAL PARKING WHEN THE VEHICLE WAS
32 LEGALLY PARKED AT THE TIME OF THE TOW; OR (E) FOR THE OPERATION OF AN
33 UNLICENSED, UNINSURED OR UNREGISTERED VEHICLE WHEN SUCH VEHICLE WAS
34 PROPERLY LICENSED, INSURED OR REGISTERED AT THE TIME OF THE TOW.

35 2. WHERE A PERSON'S VEHICLE IS WRONGFULLY TOWED, SUCH PERSON SHALL
36 HAVE THE RIGHT TO HAVE AN EXPEDITED REVIEW BEFORE A PANEL OF THREE
37 ADMINISTRATIVE LAW JUDGES AS PROVIDED IN PARAGRAPH (B) OF SUBDIVISION
38 ONE OF SECTION TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE. SUCH PANEL SHALL
39 BE EMPOWERED TO COMPEL THE BUREAU OR OTHER RESPONSIBLE AGENT TO PRODUCE
40 RECORDS AND OTHER EVIDENCE RELEVANT AND MATERIAL TO THE COMPLAINANT. THE
41 COMPLAINANT OR PERSON SHALL BE REQUIRED TO SUBMIT PROOF WITH A COMPLAINT
42 MADE UNDER THIS SECTION. SUCH PROOF SHALL CONSIST OF, AS IS APPROPRIATE,
43 A COPY OF THE RECEIPT, MONEY ORDER, OR FRONT AND BACK OF A CANCELLED
44 CHECK; A COPY OF A DECISION BY AN ADMINISTRATIVE LAW JUDGE, A COPY OF A
45 POLICE REPORT OF STOLEN VEHICLE OR PLATES OR PROOF OF AN INSURANCE
46 COMPANY PAYMENT FOR A STOLEN VEHICLE, OR A DEPARTMENT OF MOTOR VEHICLES
47 RECEIPT FOR SURRENDERED PLATES OR A COPY OF A CURRENT REGISTRATION,
48 LICENSE OR PROOF OF INSURANCE.

49 3. THE PANEL OF ADMINISTRATIVE LAW JUDGES SHALL BE EMPOWERED TO DIRECT
50 THAT THE BUREAU'S AND/OR OTHER RESPONSIBLE AGENT'S RECORDS BE CHANGED,
51 AS APPROPRIATE, TO ENSURE THAT NO FURTHER DEMAND IS MADE FOR THE FINE OR
52 PENALTY PREVIOUSLY SATISFIED OR WRONGFULLY IMPOSED AND/OR THAT NO
53 FURTHER WRONGFUL TOWING ACTION IS TAKEN AGAINST THE VEHICLE FOR THE SAME
54 REASON AS THE FIRST WRONGFUL TOW AND THE BUREAU AND ANY OTHER RESPONSI-
55 BLE AGENT SHALL COMPLY WITH SUCH DIRECTIVE. FURTHER, THE PANEL OF ADMIN-
56 ISTRATIVE LAW JUDGES, UPON PETITION BY THE COMPLAINANT OR PERSON, MAY AT

1 ITS SOLE DISCRETION, DIRECT THE PARKING VIOLATIONS BUREAU OR OTHER
2 RESPONSIBLE AGENT TO REFUND ANY MONEY PAID TO RELEASE THE WRONGFULLY
3 TOWED VEHICLE AND TO PAY THE COMPLAINANT WHOSE VEHICLE WAS WRONGFULLY
4 TOWED SUCH OUT-OF-POCKET EXPENSES, NOT TO EXCEED ONE HUNDRED FIFTY
5 DOLLARS, AS THE PANEL DEEMS REASONABLE ONLY IN SUCH CASES WHERE THE
6 COMPLAINANT OR PERSON SUFFICIENTLY DEMONSTRATES THAT HIS OR HER VEHICLE
7 WAS WRONGFULLY TOWED. SUCH OUT-OF-POCKET EXPENSES SHALL INCLUDE, BUT NOT
8 BE LIMITED TO, LOST WAGES, PROVIDED THE COMPLAINANT OR PERSON SUBMITS
9 PROOF, SATISFACTORY TO THE PANEL OF SUCH EXPENSES INCURRED. THE PAYMENT
10 OF ANY REFUND BY THE PARKING VIOLATIONS BUREAU OR OTHER RESPONSIBLE
11 AGENT SHALL BE MADE WITHIN THIRTY DAYS OF THE DATE THE PANEL SO
12 DIRECTED. AFTER FILING OF A PETITION BY THE COMPLAINANT OR PERSON AND
13 SUBSEQUENT FINDING BY THE PANEL THAT PAYMENT WAS NOT TIMELY MADE, SUCH
14 PAYMENT SHALL BE DOUBLED.

15 4. IF THE PERSON'S VEHICLE IS WRONGFULLY TOWED A SECOND OR SUBSEQUENT
16 TIME FOR THE SAME REASON AS THE FIRST WRONGFUL TOW THEN SUCH PERSON HAS
17 THE RIGHT TO REQUEST AND THE PANEL IS AUTHORIZED TO DIRECT THE PARKING
18 VIOLATIONS BUREAU OR THE RESPONSIBLE AGENT TO REFUND ANY MONEY PAID TO
19 RELEASE THE WRONGFULLY TOWED VEHICLE AND TO PAY THE COMPLAINANT OR
20 PERSON DOUBLE THE AMOUNT OF HIS OR HER OUT-OF-POCKET EXPENSES.

21 S 4. This act shall take effect on the first of November next succeed-
22 ing the date on which it shall have become a law.