

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.