

4340

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sen. KRUGER -- 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 the adjudication of traffic infractions arising out of the operation of a bicycle

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

1 Section 1. Subdivision 1 of section 225 of the vehicle and traffic
2 law, as amended by chapter 173 of the laws of 1990, is amended to read
3 as follows:
4 1. Notwithstanding any inconsistent provision of law, EXCEPT AS OTHER-
5 WISE PROVIDED IN SUBDIVISION SIX OF SECTION TWO HUNDRED THIRTY-SIX OF
6 THIS TITLE, all violations of this chapter or of a law, ordinance,
7 order, rule or regulation relating to traffic, except parking, standing,
8 stopping or pedestrian offenses, which occur within a city having a
9 population of two hundred thousand or more in which administrative
10 tribunals have heretofore been established, or within that portion of
11 Suffolk county for which a district court has been established, and
12 which are classified as traffic infractions, may be heard and determined
13 pursuant to the regulations of the commissioner as provided in this
14 article. Whenever a crime and a traffic infraction arise out of the
15 same transaction or occurrence, a charge alleging both offenses may be
16 made returnable before the court having jurisdiction over the crime.
17 Nothing herein provided shall be construed to prevent a court, having
18 jurisdiction over a criminal charge relating to traffic or a traffic
19 infraction, from lawfully entering a judgment of conviction, whether or
20 not based on a plea of guilty, for any offense classified as a traffic
21 infraction.
22 S 2. Section 236 of the vehicle and traffic law is amended by adding
23 a new subdivision 6 to read as follows:

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

LBD06659-01-9

1 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY GENERAL, SPECIAL
2 OR LOCAL LAW TO THE CONTRARY, THE CITY OF NEW YORK MAY PROVIDE BY LOCAL
3 LAW FOR THE ADMINISTRATIVE ADJUDICATION IN THE PARKING VIOLATIONS BUREAU
4 OF THE CITY OF NEW YORK OF TRAFFIC INFRACTIONS ARISING OUT OF THE OPERA-
5 TION OF A BICYCLE. EXCEPT AS OTHERWISE PROVIDED, CHARGES OF SUCH TRAF-
6 FIC INFRACTIONS SHALL BE HEARD AND DETERMINED IN THE SAME MANNER AS
7 CHARGES OF PARKING VIOLATIONS AND A PERSON CHARGED WITH ANY SUCH TRAFFIC
8 INFRACTION SHALL HAVE ALL THE RIGHTS TO A HEARING, ADMINISTRATIVE ADJU-
9 DICATION AND JUDICIAL REVIEW WHICH A PERSON CHARGED WITH A PARKING
10 VIOLATION HAS. THE PARKING VIOLATIONS BUREAU SHALL HAVE ALL THE FUNC-
11 TIONS, POWERS AND DUTIES WITH RESPECT TO SUCH TRAFFIC INFRACTIONS AS ARE
12 GRANTED WITH RESPECT TO PARKING VIOLATIONS. SUCH TRAFFIC INFRACTIONS
13 SHALL BE PUNISHABLE BY CIVIL PENALTIES IN AMOUNTS NOT TO EXCEED THE
14 AMOUNTS AUTHORIZED IN ARTICLE TWO-A OF THIS TITLE FOR THE COMMISSION OF
15 SUCH TRAFFIC INFRACTIONS. ALL MONEYS COLLECTED SHALL BE THE PROPERTY OF
16 THE CITY OF NEW YORK.

17 S 3. Section 19-201 of the administrative code of the city of New
18 York is amended to read as follows:

19 S 19-201 Parking violations bureau created. There is hereby created
20 in the department a parking violations bureau which shall have jurisdic-
21 tion of allegations of traffic infractions which constitute a parking
22 violation AND OF TRAFFIC INFRACTIONS ARISING OUT OF THE OPERATION OF A
23 BICYCLE. For the purpose of this chapter, a parking violation is the
24 violation of any local law, rule or regulation provided for or regulat-
25 ing the parking, stopping or standing of a motor vehicle AND THE TERM
26 "BICYCLE" SHALL HAVE THE MEANING GIVEN SUCH TERM IN SECTION ONE HUNDRED
27 TWO OF THE VEHICLE AND TRAFFIC LAW.

28 S 4. Subdivisions a, b and h of section 19-203 of the administrative
29 code of the city of New York, subdivision b as amended by section 2 of
30 part B of chapter 93 of the laws of 2002, are amended to read as
31 follows:

32 a. To accept pleas to, and to hear and determine, charges of parking
33 violations AND OF TRAFFIC INFRACTIONS ARISING OUT OF THE OPERATION OF A
34 BICYCLE;

35 b. To provide for penalties other than imprisonment for parking
36 violations, provided however, that monetary penalties shall not exceed
37 fifty dollars for each parking violation AND TO PROVIDE FOR PENALTIES
38 FOR THE COMMISSION OF TRAFFIC INFRACTIONS ARISING OUT OF THE OPERATION
39 OF A BICYCLE IN AMOUNTS AUTHORIZED IN ARTICLE TWO-A OF THE VEHICLE AND
40 TRAFFIC LAW, provided that monetary penalties shall not exceed one
41 hundred dollars for each parking violation committed in a space where
42 stopping or standing is prohibited and provided, further, that monetary
43 penalties shall not exceed one hundred fifty dollars for each hand-
44 icapped parking violation;

45 h. To prepare and issue a notice of violation in blank to members of
46 the police department, the fire department, the department of transpor-
47 tation and to other officers as the bureau by regulation shall deter-
48 mine. The notice of violation, when filled in and sworn to or affirmed
49 by such designated officers, and served as provided in this chapter,
50 shall constitute notice of the parking violation charged OR NOTICE OF
51 THE CHARGE OF A TRAFFIC INFRACTION ARISING OUT OF THE OPERATION OF A
52 BICYCLE, AS THE CASE MAY BE.

53 S 5. Subdivision b of section 19-204 of the administrative code of
54 the city of New York is amended to read as follows:

55 b. [The] IN THE CASE OF PARKING VIOLATIONS, THE notice of violation
56 shall be served personally upon the operator of a motor vehicle who is

1 present at the time of service, and his or her name, together with the
2 license designation as shown by the registration plates on said vehicle,
3 shall be inserted therein. The notice of violation shall be served upon
4 the owner of the motor vehicle if the operator is not present, by affix-
5 ing such notice to said vehicle in a conspicuous place. Whenever such
6 notice is so affixed, in lieu of inserting the name of the person
7 charged with the violation in the space provided for the identification
8 of said person, the words "owner of the motor vehicle bearing license"
9 may be inserted to be followed by the license designation as shown by
10 the registration plates on said vehicle. Service of the notice of
11 violation by affixation as herein provided shall have the same force and
12 effect and shall be subject to the same penalties for disregard thereof
13 as though the same was personally served with the name of the person
14 charged with the violation inserted therein. IN THE CASE OF TRAFFIC
15 INFRACTIONS ARISING OUT OF THE OPERATION OF A BICYCLE, THE NOTICE OF
16 VIOLATION SHALL BE SERVED PERSONALLY UPON THE OPERATOR OF A BICYCLE WHO
17 IS PRESENT AT THE TIME OF SERVICE, AND HIS OR HER NAME SHALL BE INSERTED
18 THEREIN.

19 S 6. Paragraph 2 of subdivision a of section 19-205 of the adminis-
20 trative code of the city of New York is amended to read as follows:

21 2. Whenever used in this chapter, the term "operator" means any
22 person, corporation, firm, agency, association or organization that uses
23 or operates a motor vehicle with or without the permission of the owner,
24 and an owner who operates his or her own motor vehicle, EXCEPT THAT WITH
25 RESPECT TO BICYCLES THE TERM "OPERATOR" MEANS ANY INDIVIDUAL WHO USES OR
26 OPERATES A BICYCLE.

27 S 7. Subdivision a of section 19-206 of the administrative code of
28 the city of New York is amended to read as follows:

29 a. Notice of hearing. Whenever a person charged with a parking
30 violation OR A TRAFFIC INFRACTION ARISING OUT OF THE OPERATION OF A
31 BICYCLE enters a plea of not guilty, the bureau shall advise such person
32 personally or by registered or certified mail, return receipt requested,
33 of the date on which he or she must appear to answer the charge at a
34 hearing. The form and content of such notice of hearing shall be
35 prescribed by the director, and shall contain a warning to advise the
36 person so pleading that failure to appear on the date designated, or on
37 any subsequent adjourned date, shall be deemed, for all purposes, an
38 admission of liability, and that a default judgment may be rendered.

39 S 8. Paragraphs 1 and 6 of subdivision b of section 19-206 of the
40 administrative code of the city of New York are amended to read as
41 follows:

42 1. Every hearing for the adjudication of a charge of parking violation
43 OR TRAFFIC INFRACTION ARISING OUT OF THE OPERATION OF A BICYCLE shall be
44 held before a senior hearing examiner or a hearing examiner in accord-
45 ance with rules and regulations promulgated by the bureau.

46 6. The hearing officer shall not examine (I) the parking record of a
47 person charged WITH A PARKING VIOLATION prior to making a determination
48 OR (II) THE TRAFFIC VIOLATIONS RECORD OF A PERSON CHARGED WITH A TRAFFIC
49 INFRACTION ARISING OUT OF THE OPERATION OF A BICYCLE PRIOR TO MAKING A
50 DETERMINATION.

51 S 9. Section 19-207 of the administrative code of the city of New
52 York, subdivision b as amended by chapter 269 of the laws of 1987, is
53 amended to read as follows:

54 S 19-207 Judgments. a. The hearing officer shall make a determi-
55 nation on the charges, either sustaining or dismissing them. Where the
56 hearing officer determines that the charges OF A PARKING VIOLATION have

1 been sustained he or she may examine the parking violations record of
2 the person charged prior to rendering a judgment. WHERE THE HEARING
3 OFFICER DETERMINES THAT THE CHARGES OF A TRAFFIC INFRACTION ARISING OUT
4 OF THE OPERATION OF A BICYCLE HAVE BEEN SUSTAINED HE OR SHE MAY EXAMINE
5 THE TRAFFIC VIOLATIONS RECORD OF THE PERSON CHARGED PRIOR TO RENDERING A
6 JUDGMENT. Judgments sustaining or dismissing charges shall be entered
7 on a judgment roll maintained by the bureau together with records show-
8 ing payment and non-payment of penalties.

9 b. Where an operator or owner fails to enter a plea to a charge of
10 parking violation OR TRAFFIC INFRACTION ARISING OUT OF THE OPERATION OF
11 A BICYCLE, AS THE CASE MAY BE, or fails to appear on a designated hear-
12 ing date or subsequent adjourned date, as prescribed by this chapter or
13 by rule or regulation of the bureau, such failure to plead or to appear
14 shall be deemed, for all purposes, an admission of liability and shall
15 be grounds for rendering and entering a default judgment. However,
16 after the expiration of the time prescribed for entering a plea or
17 making an appearance, and before such default judgment may be rendered,
18 the bureau shall notify such operator or owner, by ordinary mail (1) of
19 the violation charge, (2) of the impending default judgment, and (3)
20 that a default may be avoided by entering a plea or making an appearance
21 within thirty days of the sending of such notice. Pleas entered or
22 appearances made within that period shall be in the manner prescribed in
23 the notice and not subject to additional penalty or fee. Such notice of
24 impending default judgment shall not be required prior to the rendering
25 and entry thereof in the case of operators or owners who are non-resi-
26 dents of the state of New York. In no case shall a default judgment be
27 rendered or, where required, a notice of impending default judgment be
28 sent, more than two years after the expiration of the time prescribed
29 for entering a plea or making an appearance.

30 S 10. This act shall take effect one year after it shall have become
31 a law.