

4393

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sen. DUANE -- 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 in each city with a population of one million or more a demonstration program to enforce maximum speed limits by means of speed limit photo devices; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subdivision 1 of section 235 of the vehicle and traffic
2 law, as amended by chapter 379 of the laws of 1992, is amended to read
3 as follows:
4 1. Notwithstanding any inconsistent provision of any general, special
5 or local law or administrative code to the contrary, in any city which
6 heretofore or hereafter is authorized to establish an administrative
7 tribunal to hear and determine complaints of traffic infractions consti-
8 tuting parking, standing or stopping violations, or to adjudicate the
9 liability of owners for violations of subdivision (d) of section eleven
10 hundred eleven of this chapter in accordance with section eleven hundred
11 eleven-a of this chapter, or to adjudicate the liability of owners for
12 violations of toll collection regulations as defined in and in accord-
13 ance with the provisions of section two thousand nine hundred eighty-
14 five of the public authorities law and sections sixteen-a, sixteen-b and
15 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
16 hundred fifty, OR TO ADJUDICATE LIABILITY OF OWNERS FOR VIOLATIONS OF
17 SUBDIVISIONS (C) AND (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAP-
18 TER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER,
19 such tribunal and the rules and regulations pertaining thereto shall be
20 constituted in substantial conformance with the following sections.

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

LBD04540-01-9

1 S 2. Subdivision 1 of section 236 of the vehicle and traffic law, as
2 amended by chapter 379 of the laws of 1992, is amended to read as
3 follows:

4 1. Creation. In any city as hereinbefore or hereafter authorized such
5 tribunal when created shall be known as the parking violations bureau
6 and shall have jurisdiction of traffic infractions which constitute a
7 parking violation and, where authorized by local law adopted pursuant to
8 subdivision (a) of section eleven hundred eleven-a of this chapter,
9 shall adjudicate the liability of owners for violations of subdivision
10 (d) of section eleven hundred eleven of this chapter in accordance with
11 such section eleven hundred eleven-a, and shall adjudicate the liability
12 of owners for violations of toll collection regulations as defined in
13 and in accordance with the provisions of section two thousand nine
14 hundred eighty-five of the public authorities law and sections
15 sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four
16 of the laws of nineteen hundred fifty, AND SHALL ADJUDICATE LIABILITY OF
17 OWNERS FOR VIOLATIONS OF SUBDIVISIONS (C) AND (D) OF SECTION ELEVEN
18 HUNDRED EIGHTY OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
19 EIGHTY-B OF THIS CHAPTER. Such tribunal, except in a city with a popu-
20 lation of one million or more, shall also have jurisdiction of abandoned
21 vehicle violations. For the purposes of this article, a parking
22 violation is the violation of any law, rule or regulation providing for
23 or regulating the parking, stopping or standing of a vehicle. In addi-
24 tion for purposes of this article, "commissioner" shall mean and include
25 the commissioner of traffic of the city or an official possessing
26 authority as such a commissioner.

27 S 3. Subdivision 11 of section 237 of the vehicle and traffic law, as
28 added by chapter 379 of the laws of 1992, is amended to read as follows:

29 11. To adjudicate the liability of owners for violations of toll
30 collection regulations as defined in and in accordance with the
31 provisions of section two thousand nine hundred eighty-five of the
32 public authorities law and sections sixteen-a, sixteen-b and sixteen-c
33 of chapter seven hundred seventy-four of the laws of nineteen hundred
34 fifty[.];

35 S 4. Section 237 of the vehicle and traffic law is amended by adding a
36 new subdivision 12 to read as follows:

37 12. TO ADJUDICATE THE LIABILITY OF OWNERS FOR VIOLATIONS OF SUBDIVI-
38 SIONS (C) AND (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER IN
39 ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER.

40 S 5. Paragraph f of subdivision 1 of section 239 of the vehicle and
41 traffic law, as amended by chapter 379 of the laws of 1992, is amended
42 to read as follows:

43 f. "Notice of violation" means a notice of violation as defined in
44 subdivision nine of section two hundred thirty-seven of this article,
45 but shall not be deemed to include a notice of liability issued pursuant
46 to authorization set forth in section eleven hundred eleven-a of this
47 chapter and shall not be deemed to include a notice of liability issued
48 pursuant to section two thousand nine hundred eighty-five of the public
49 authorities law and sections sixteen-a, sixteen-b and sixteen-c of chap-
50 ter seven hundred seventy-four of the laws of nineteen hundred fifty AND
51 SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO
52 SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER.

53 S 6. Subdivision 4 of section 239 of the vehicle and traffic law, as
54 amended by chapter 379 of the laws of 1992, is amended to read as
55 follows:

1 4. Applicability. The provisions of paragraph b of subdivision two and
2 subdivision three of this section shall not be applicable to determi-
3 nations of owner liability for the failure of an operator to comply with
4 subdivision (d) of section eleven hundred eleven of this chapter and
5 shall not be applicable to determinations of owner liability imposed
6 pursuant to section two thousand nine hundred eighty-five of the public
7 authorities law and sections sixteen-a, sixteen-b and sixteen-c of chap-
8 ter seven hundred seventy-four of the laws of nineteen hundred fifty AND
9 SHALL NOT BE APPLICABLE TO DETERMINATIONS OF OWNER LIABILITY FOR THE
10 VIOLATIONS OF SUBDIVISIONS (C) AND (D) OF SECTION ELEVEN HUNDRED EIGHTY
11 OF THIS CHAPTER.

12 S 7. Subdivision 1 of section 240 of the vehicle and traffic law, as
13 amended by chapter 379 of the laws of 1992, is amended to read as
14 follows:

15 1. Notice of hearing. Whenever a person charged with a parking
16 violation enters a plea of not guilty or a person alleged to be liable
17 in accordance with section eleven hundred eleven-a of this chapter for a
18 violation of subdivision (d) of section eleven hundred eleven of this
19 chapter contests such allegation, or a person alleged to be liable in
20 accordance with the provisions of section two thousand nine hundred
21 eighty-five of the public authorities law or sections sixteen-a,
22 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
23 laws of nineteen hundred fifty, OR A PERSON ALLEGED TO BE LIABLE IN
24 ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED EIGHTY-B OF
25 THIS CHAPTER FOR A VIOLATION OF SUBDIVISION (C) OR (D) OF SECTION ELEVEN
26 HUNDRED EIGHTY OF THIS CHAPTER CONTESTS SUCH ALLEGATION, the bureau
27 shall advise such person personally by such form of first class mail as
28 the director may direct of the date on which he OR SHE must appear to
29 answer the charge at a hearing. The form and content of such notice of
30 hearing shall be prescribed by the director, and shall contain a warning
31 to advise the person so pleading or contesting that failure to appear on
32 the date designated, or on any subsequent adjourned date, shall be
33 deemed an admission of liability, and that a default judgment may be
34 entered thereon.

35 S 8. Subdivision 1-a of section 240 of the vehicle and traffic law, as
36 amended by chapter 379 of the laws of 1992, is amended to read as
37 follows:

38 1-a. Fines and penalties. Whenever a plea of not guilty has been
39 entered, or the bureau has been notified that an allegation of liability
40 in accordance with section eleven hundred eleven-a of this chapter or an
41 allegation of liability in accordance with section two thousand nine
42 hundred eighty-five of the public authorities law or sections sixteen-a,
43 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
44 laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORD-
45 ANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER, is being
46 contested, by a person in a timely fashion and a hearing upon the merits
47 has been demanded, but has not yet been held, the bureau shall not issue
48 any notice of fine or penalty to that person prior to the date of the
49 hearing.

50 S 9. Paragraphs a and g of subdivision 2 of section 240 of the vehicle
51 and traffic law, as amended by chapter 379 of the laws of 1992, are
52 amended to read as follows:

53 a. Every hearing for the adjudication of a charge of parking violation
54 or an allegation of liability in accordance with section eleven hundred
55 eleven-a of this chapter or an allegation of liability in accordance
56 with section two thousand nine hundred eighty-five of the public author-

ities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty OR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with section eleven hundred eleven-a of this chapter is contested or of a hearing at which liability in accordance with 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 is contested OR A HEARING AT WHICH LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER IS CONTESTED. Recording devices may be used for the making of the record.

S 10. Subdivisions 1 and 2 of section 241 of the vehicle and traffic law, as amended by chapter 379 of the laws of 1992, are amended to read as follows:

1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he OR SHE may examine either the prior parking violations record or the record of liabilities incurred in accordance with section eleven hundred eleven-a of this chapter or the record of liabilities incurred in accordance with 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 of the person charged OR THE RECORD OF LIABILITIES INCURRED IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties.

2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or fails to contest an allegation of liability in accordance with 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 FAILS TO CONTEST AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability in accordance with section eleven hundred eleven-a of this chapter alleged or liability in accordance with 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

1 alleged OR LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B
2 OF THIS CHAPTER, (2) of the impending default judgment, (3) that such
3 judgment will be entered in the Civil Court of the city in which the
4 bureau has been established, or other court of civil jurisdiction or any
5 other place provided for the entry of civil judgments within the state
6 of New York, and (4) that a default may be avoided by entering a plea or
7 contesting an allegation of liability in accordance with section eleven
8 hundred eleven-a of this chapter or contesting an allegation of liability
9 in accordance with section two thousand nine hundred eighty-five of
10 the public authorities law or sections sixteen-a, sixteen-b and
11 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
12 hundred fifty OR CONTESTING AN ALLEGATION OF LIABILITY IN ACCORDANCE
13 WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER, as appropriate, or
14 making an appearance within thirty days of the sending of such notice.
15 Pleas entered and allegations contested within that period shall be in
16 the manner prescribed in the notice and not subject to additional penalty
17 or fee. Such notice of impending default judgment shall not be
18 required prior to the rendering and entry thereof in the case of operators
19 or owners who are non-residents of the state of New York. In no
20 case shall a default judgment be rendered or, where required, a notice
21 of impending default judgment be sent, more than two years after the
22 expiration of the time prescribed for entering a plea or contesting an
23 allegation. When a person has demanded a hearing, no fine or penalty
24 shall be imposed for any reason, prior to the holding of the hearing. If
25 the hearing examiner shall make a determination on the charges, sustaining
26 them, he OR SHE shall impose no greater penalty or fine than those
27 upon which the person was originally charged.

28 S 11. Subparagraph (i) of paragraph a of subdivision 5-a of section
29 401 of the vehicle and traffic law, as amended by chapter 496 of the
30 laws of 1990 and as designated by chapter 373 of the laws of 1994, is
31 amended to read as follows:

32 (i) If at the time of application for a registration or renewal there-
33 of there is a certification from a court, parking violations bureau,
34 traffic and parking violations agency or administrative tribunal of
35 appropriate jurisdiction or administrative tribunal of appropriate
36 jurisdiction that the registrant or his OR HER representative failed to
37 appear on the return date or any subsequent adjourned date or failed to
38 comply with the rules and regulations of an administrative tribunal
39 following entry of a final decision in response to a total of three or
40 more summonses or other process in the aggregate, issued within an eight-
41 teen month period, charging either that (i) such motor vehicle was
42 parked, stopped or standing, or that such motor vehicle was operated for
43 hire by the registrant or his OR HER agent without being licensed as a
44 motor vehicle for hire by the appropriate local authority, in violation
45 of any of the provisions of this chapter or of any law, ordinance, rule
46 or regulation made by a local authority or (ii) the registrant was
47 liable in accordance with section eleven hundred eleven-a of this chap-
48 ter for a violation of subdivision (d) of section eleven hundred eleven
49 of this chapter OR (III) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH
50 SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER FOR A VIOLATION OF
51 SUBDIVISION (C) OR (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER,
52 the commissioner or his OR HER agent shall deny the registration or
53 renewal application until the applicant provides proof from the court,
54 traffic and parking violations agency or administrative tribunal wherein
55 the charges are pending that an appearance or answer has been made or in
56 the case of an administrative tribunal that he OR SHE has complied with

1 the rules and regulations of said tribunal following entry of a final
2 decision. Where an application is denied pursuant to this section, the
3 commissioner may, in his OR HER discretion, deny a registration or
4 renewal application to any other person for the same vehicle and may
5 deny a registration or renewal application for any other motor vehicle
6 registered in the name of the applicant where the commissioner has
7 determined that such registrant's intent has been to evade the purposes
8 of this subdivision and where the commissioner has reasonable grounds to
9 believe that such registration or renewal will have the effect of
10 defeating the purposes of this subdivision. Such denial shall only
11 remain in effect as long as the summonses remain unanswered, or in the
12 case of an administrative tribunal, the registrant fails to comply with
13 the rules and regulations following entry of a final decision.

14 S 12. The vehicle and traffic law is amended by adding a new section
15 1180-b to read as follows:

16 S 1180-B. OWNER LIABILITY FOR FAILURE OF OPERATOR TO COMPLY WITH
17 APPLICABLE MAXIMUM SPEED LIMIT. 1. NOTWITHSTANDING ANY OTHER PROVISION
18 OF LAW, EACH CITY WITH A POPULATION OF ONE MILLION OR MORE IS HEREBY
19 AUTHORIZED AND EMPOWERED TO ESTABLISH A DEMONSTRATION PROGRAM IMPOSING
20 MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAILURE OF AN OPERATOR
21 THEREOF TO COMPLY WITH THE APPLICABLE MAXIMUM SPEED LIMIT IN SUCH CITY
22 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. SUCH CITY, FOR
23 PURPOSES OF THE IMPLEMENTATION OF SUCH PROGRAM, SHALL OPERATE SPEED
24 LIMIT PHOTO DEVICES WITHIN SUCH CITY AT NO MORE THAN TEN AND NO FEWER
25 THAN THREE LOCATIONS AT ANY ONE TIME DURING THE FIRST YEAR OF SUCH
26 PROGRAM AND AT NO MORE THAN TWENTY LOCATIONS AT ANY ONE TIME DURING THE
27 SECOND YEAR AND SUBSEQUENT YEARS OF SUCH PROGRAM. SUCH SPEED LIMIT PHOTO
28 DEVICES MAY BE STATIONARY OR MOBILE AND SHALL BE ACTIVATED AT LOCATIONS
29 SELECTED BY SUCH CITY.

30 2. IN ANY CITY THAT HAS ESTABLISHED A DEMONSTRATION PROGRAM PURSUANT
31 TO SUBDIVISION ONE OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE
32 LIABLE FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE
33 WAS USED OR OPERATED WITH THE PERMISSION OF THE OWNER, EXPRESS OR
34 IMPLIED, IN VIOLATION OF SUBDIVISION (C) OR (D) OF SECTION ELEVEN
35 HUNDRED EIGHTY OF THIS ARTICLE, AND SUCH VIOLATION IS EVIDENCED BY
36 INFORMATION OBTAINED FROM A SPEED LIMIT PHOTO DEVICE; PROVIDED HOWEVER
37 THAT NO OWNER OF A VEHICLE SHALL BE LIABLE FOR A PENALTY IMPOSED PURSU-
38 ANT TO THIS SECTION WHERE THE OPERATOR OF SUCH VEHICLE HAS BEEN
39 CONVICTED OF THE UNDERLYING VIOLATION OF SUBDIVISION (C) OR (D) OF
40 SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE.

41 3. FOR PURPOSES OF THIS SECTION, "OWNER" SHALL HAVE THE MEANING
42 PROVIDED IN SECTION TWO HUNDRED THIRTY-NINE OF THIS CHAPTER. FOR
43 PURPOSES OF THIS SECTION, "SPEED LIMIT PHOTO DEVICE" SHALL MEAN EQUIP-
44 MENT THAT TAKES A FILM OR DIGITAL CAMERA-BASED PHOTOGRAPH, MICROPHOTO-
45 GRAPH, VIDEO, OR OTHER RECORDED IMAGE WHICH IS LINKED WITH A VIOLATION
46 DETECTION SYSTEM THAT SYNCHRONIZES THE TAKING OF SUCH IMAGE OF A VEHICLE
47 AT THE TIME THE VEHICLE IS USED OR OPERATED IN VIOLATION OF SUBDIVISION
48 (C) OR (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE.

49 4. A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY THE
50 CITY IN WHICH THE CHARGED VIOLATION OCCURRED OR ITS VENDOR OR CONTRAC-
51 TOR, OR A FACSIMILE THEREOF, BASED UPON INSPECTION OF PHOTOGRAPHS,
52 MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED IMAGES PRODUCED BY A SPEED
53 LIMIT PHOTO DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED
54 THEREIN. ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
55 IMAGES EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN

1 ANY PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH VIOLATION PURSUANT
2 TO THIS SECTION.

3 5. AN OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (C) OR (D) OF
4 SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE SHALL BE LIABLE FOR MONE-
5 TARY PENALTIES IN ACCORDANCE WITH A SCHEDULE OF FINES AND PENALTIES
6 PROMULGATED BY THE PARKING VIOLATIONS BUREAU OF SUCH CITY; PROVIDED,
7 HOWEVER, THAT THE MONETARY PENALTY FOR DRIVING AT A SPEED ONE TO TEN
8 MILES PER HOUR IN EXCESS OF THE MAXIMUM SPEED LIMIT SHALL NOT EXCEED
9 FIFTY DOLLARS, THE MONETARY PENALTY FOR DRIVING AT A SPEED MORE THAN TEN
10 AND LESS THAN THIRTY MILES PER HOUR IN EXCESS OF THE MAXIMUM SPEED LIMIT
11 SHALL NOT EXCEED SEVENTY-FIVE DOLLARS, AND THE MONETARY PENALTY FOR
12 DRIVING THIRTY MILES PER HOUR OR MORE IN EXCESS OF THE MAXIMUM SPEED
13 LIMIT SHALL NOT EXCEED ONE HUNDRED FIFTY DOLLARS; PROVIDED, FURTHER,
14 THAT AN OWNER SHALL BE LIABLE FOR AN ADDITIONAL PENALTY NOT TO EXCEED
15 TWENTY-FIVE DOLLARS FOR EACH VIOLATION FOR THE FAILURE TO RESPOND TO A
16 NOTICE OF LIABILITY WITHIN THE PRESCRIBED TIME PERIOD.

17 6. AN IMPOSITION OF LIABILITY PURSUANT TO THIS SECTION SHALL NOT BE
18 DEEMED A CONVICTION AS AN OPERATOR AND SHALL NOT BE MADE PART OF THE
19 OPERATING RECORD OF THE PERSON UPON WHOM SUCH LIABILITY IS IMPOSED NOR
20 SHALL IT BE USED FOR INSURANCE PURPOSES IN THE PROVISION OF MOTOR VEHI-
21 CLE INSURANCE COVERAGE.

22 7. (A) A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL IN
23 ACCORDANCE WITH THIS SECTION TO EACH PERSON ALLEGED TO BE LIABLE AS AN
24 OWNER FOR A VIOLATION OF SUBDIVISION (C) OR (D) OF SECTION ELEVEN
25 HUNDRED EIGHTY OF THIS ARTICLE. PERSONAL DELIVERY ON THE OWNER SHALL NOT
26 BE REQUIRED. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE
27 ORDINARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS
28 CONTAINED THEREIN.

29 (B) A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
30 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF SUBDIVISION
31 (C) OR (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE, THE REGIS-
32 TRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION
33 WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION AND
34 THE IDENTIFICATION NUMBER OF THE SPEED LIMIT PHOTO DEVICE WHICH RECORDED
35 THE VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

36 (C) THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
37 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
38 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
39 CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST
40 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
41 ITY AND THAT A DEFAULT JUDGEMENT MAY BE ENTERED THEREON.

42 (D) THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY
43 OR AGENCIES DESIGNATED BY SUCH CITY.

44 8. IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT TO
45 THIS SECTION FOR ANY TIME PERIOD DURING WHICH SUCH VEHICLE WAS REPORTED
46 TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A VALID
47 DEFENSE TO AN ALLEGATION OF LIABILITY FOR A VIOLATION OF SUBDIVISION (C)
48 OR (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE THAT THE VEHICLE
49 HAD BEEN REPORTED TO THE POLICE AS STOLEN PRIOR TO THE TIME THE
50 VIOLATION OCCURRED AND HAD NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES
51 OF ASSERTING THE DEFENSE PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFI-
52 CIENT THAT AN ORIGINAL INCIDENT FORM ISSUED BY THE POLICE ON THE STOLEN
53 VEHICLE BE SENT BY FIRST CLASS MAIL TO THE PARKING VIOLATIONS BUREAU OF
54 SUCH CITY.

55 9. (A) AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF
56 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION SEVEN OF THIS SECTION SHALL

1 NOT BE LIABLE FOR THE VIOLATION OF SUBDIVISION (C) OR (D) OF SECTION
2 ELEVEN HUNDRED EIGHTY OF THIS ARTICLE, PROVIDED THAT:

3 (I) PRIOR TO THE VIOLATION, THE LESSOR HAS FILED WITH SUCH PARKING
4 VIOLATIONS BUREAU IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO
5 HUNDRED THIRTY-NINE OF THIS CHAPTER; AND

6 (II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU
7 OF THE DATE AND TIME OF A LIABILITY, TOGETHER WITH THE OTHER INFORMATION
8 CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS TO
9 SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE
10 IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION,
11 TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL,
12 LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH
13 BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

14 (B) FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS
15 SUBDIVISION SHALL RENDER THE OWNER LIABLE FOR THE PENALTY PRESCRIBED IN
16 THIS SECTION.

17 (C) WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH (A) OF
18 THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH
19 VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES
20 OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSU-
21 ANT TO THIS SECTION AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO
22 SUBDIVISION SEVEN OF THIS SECTION.

23 10. IF THE OWNER LIABLE FOR A VIOLATION OF SUBDIVISION (C) OR (D) OF
24 SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE PURSUANT TO THIS SECTION
25 WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE
26 OWNER MAY MAINTAIN AN ACTION FOR INDEMNIFICATION AGAINST THE OPERATOR.

27 11. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE LIABILITY
28 OF AN OPERATOR OF A VEHICLE FOR ANY VIOLATION OF SUBDIVISION (C) OR (D)
29 OF SECTION ELEVEN HUNDRED EIGHTY OF THIS ARTICLE.

30 12. ANY CITY THAT ADOPTS A DEMONSTRATION PROGRAM PURSUANT TO SUBDIVI-
31 SION ONE OF THIS SECTION SHALL SUBMIT A REPORT ON THE RESULTS OF THE USE
32 OF SPEED LIMIT PHOTO DEVICES TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF
33 THE SENATE AND THE SPEAKER OF THE ASSEMBLY BY APRIL FIRST, TWO THOUSAND
34 FOURTEEN. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

35 (A) A DESCRIPTION OF THE LOCATIONS WHERE SPEED LIMIT PHOTO DEVICES
36 WERE USED;

37 (B) THE NUMBER OF VIOLATIONS RECORDED AT EACH SUCH LOCATION AND IN THE
38 AGGREGATE ON A DAILY, WEEKLY AND MONTHLY BASIS;

39 (C) THE TOTAL NUMBER OF NOTICES OF LIABILITY ISSUED;

40 (D) THE NUMBER OF FINES AND TOTAL AMOUNT OF FINES PAID AFTER FIRST
41 NOTICE OF LIABILITY;

42 (E) THE NUMBER OF VIOLATIONS ADJUDICATED AND RESULTS OF SUCH ADJUDI-
43 CATIONS INCLUDING BREAKDOWNS OF DISPOSITIONS MADE;

44 (F) THE TOTAL AMOUNT OF REVENUE REALIZED BY SUCH CITY; AND

45 (G) QUALITY OF THE ADJUDICATION PROCESS AND ITS RESULTS.

46 S 13. The opening paragraph of subdivision 1 of section 1809 of the
47 vehicle and traffic law, as amended by section 2 of part DD of chapter
48 56 of the laws of 2008, is amended to read as follows:

49 Whenever proceedings in an administrative tribunal or a court of this
50 state result in a conviction for an offense under this chapter or a
51 traffic infraction under this chapter, or a local law, ordinance, rule
52 or regulation adopted pursuant to this chapter, other than a traffic
53 infraction involving standing, stopping, or parking or violations by
54 pedestrians or bicyclists, or other than an adjudication of liability of
55 an owner for a violation of subdivision (d) of section eleven hundred
56 eleven of this chapter in accordance with section eleven hundred

1 eleven-a of this chapter, OR OTHER THAN AN ADJUDICATION OF LIABILITY OF
2 AN OWNER FOR A VIOLATION OF SUBDIVISION (C) OR (D) OF SECTION ELEVEN
3 HUNDRED EIGHTY OF THIS CHAPTER IN ACCORDANCE WITH SECTION ELEVEN HUNDRED
4 EIGHTY-B OF THIS CHAPTER, there shall be levied a crime victim assist-
5 ance fee and a mandatory surcharge, in addition to any sentence required
6 or permitted by law, in accordance with the following schedule:

7 S 14. Paragraph (c) of subdivision 1 of section 1809 of the vehicle
8 and traffic law, as amended by section 2 of part DD of chapter 56 of the
9 laws of 2008, is amended to read as follows:

10 (c) Whenever proceedings in an administrative tribunal or a court of
11 this state result in a conviction for an offense under this chapter
12 other than a crime pursuant to section eleven hundred ninety-two of this
13 chapter, or a traffic infraction under this chapter, or a local law,
14 ordinance, rule or regulation adopted pursuant to this chapter, other
15 than a traffic infraction involving standing, stopping, or parking or
16 violations by pedestrians or bicyclists, or other than an adjudication
17 of liability of an owner for a violation of subdivision (d) of section
18 eleven hundred eleven of this chapter in accordance with section eleven
19 hundred eleven-a of this chapter or other than an infraction pursuant to
20 article nine of this chapter or other than an adjudication of liability
21 of an owner for a violation of toll collection regulations pursuant to
22 section two thousand nine hundred eighty-five of the public authorities
23 law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven
24 hundred seventy-four of the laws of nineteen hundred fifty, OR OTHER
25 THAN AN ADJUDICATION OF LIABILITY OF AN OWNER FOR A VIOLATION OF SUBDI-
26 VISION (C) OR (D) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER IN
27 ACCORDANCE WITH SECTION ELEVEN HUNDRED EIGHTY-B OF THIS CHAPTER, there
28 shall be levied a crime victim assistance fee in the amount of five
29 dollars and a mandatory surcharge, in addition to any sentence required
30 or permitted by law, in the amount of fifty-five dollars.

31 S 15. Paragraphs (g), (h), (i) and (j) of subdivision 2 of section 87
32 of the public officers law, paragraph (g) as amended by chapter 510 of
33 the laws of 1999, paragraph (h) as added by chapter 933 of the laws of
34 1977, paragraph (i) as added by chapter 368 of the laws of 2001 and
35 paragraph (j) as added by chapter 746 of the laws of 1988 are amended
36 and a new paragraph (k) is added to read as follows:

37 (g) are inter-agency or intra-agency materials which are not:
38 i. statistical or factual tabulations or data;
39 ii. instructions to staff that affect the public;
40 iii. final agency policy or determinations;
41 iv. external audits, including but not limited to audits performed by
42 the comptroller and the federal government; [or]

43 (h) are examination questions or answers which are requested prior to
44 the final administration of such questions[.];

45 (i) if disclosed, would jeopardize an agency's capacity to guarantee
46 the security of its information technology assets, such assets encom-
47 passing both electronic information systems and infrastructures; [or]

48 (j) are photographs, microphotographs, videotape or other recorded
49 images prepared under authority of section eleven hundred eleven-a of
50 the vehicle and traffic law[.]; OR

51 (K) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, VIDEOTAPE OR OTHER RECORDED
52 IMAGES PRODUCED BY A SPEED LIMIT PHOTO DEVICE PREPARED UNDER AUTHORITY
53 OF SECTION ELEVEN HUNDRED EIGHTY-B OF THE VEHICLE AND TRAFFIC LAW.

54 S 16. This act shall take effect on the thirtieth day after it shall
55 have become a law and shall expire 5 years after such effective date
56 when upon such date the provisions of this act shall be deemed repealed;

1 provided, however, that the amendments to subdivision 1 of section 235
2 of the vehicle and traffic law made by section one of this act shall not
3 affect the expiration of such section and shall be deemed to expire
4 therewith, the amendments to subdivision 1 of section 236 of the vehicle
5 and traffic law made by section two of this act shall not affect the
6 expiration of such subdivision and shall be deemed to expire therewith,
7 the amendments to paragraph f of subdivision 1 of section 239 of the
8 vehicle and traffic law made by section five of this act shall not
9 affect the expiration of such paragraph and shall be deemed to expire
10 therewith, the amendments to subdivision 4 of section 239 of the vehicle
11 and traffic law made by section six of this act shall not affect the
12 repeal of such subdivision and shall be deemed to be repealed therewith,
13 the amendments to subdivisions 1 and 1-a of section 240 of the vehicle
14 and traffic law made by sections seven and eight of this act shall not
15 affect the expiration of such subdivisions and shall be deemed to expire
16 therewith, the amendments to paragraphs a and g of subdivision 2 of
17 section 240 of the vehicle and traffic law made by section nine of this
18 act shall not affect the expiration of such paragraphs and shall be
19 deemed to expire therewith, the amendments to subdivisions 1 and 2 of
20 section 241 of the vehicle and traffic law made by section ten of this
21 act shall not affect the expiration of such subdivisions and shall be
22 deemed to expire therewith, the amendments to subparagraph (i) of para-
23 graph a of subdivision 5-a of section 401 of the vehicle and traffic law
24 made by section eleven of this act shall not affect the expiration of
25 such paragraph and shall be deemed to expire therewith, the amendments
26 to the opening paragraph and paragraph (c) of subdivision 1 of section
27 1809 of the vehicle and traffic law made by sections thirteen and four-
28 teen of this act shall not affect the expiration of such subdivision and
29 shall be deemed to expire therewith, and the amendments to paragraph (j)
30 of subdivision 2 of section 87 of the public officers law made by
31 section fifteen of this act shall not affect the repeal of such para-
32 graph and shall be deemed to be repealed therewith; and provided further
33 that effective immediately, the addition, amendment and/or repeal of any
34 rule or regulation necessary for the implementation of this act on its
35 effective date are authorized and directed to be made and completed on
36 or before such effective date.