

5870

2011-2012 Regular Sessions

I N S E N A T E

August 3, 2011

Introduced by Sens. FUSCHILLO, DILAN, GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public authorities law, in relation to the maximum civil penalties and service by mail provisions of the transit adjudication bureau of the New York city transit authority

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

1 Section 1. Subdivision 5-a of section 1204 of the public authorities  
2 law, as amended by chapter 931 of the laws of 1984, is amended to read  
3 as follows:  
4 5-a. To make, amend and repeal rules governing the conduct and safety  
5 of the public as it may deem necessary, convenient or desirable for the  
6 use and operation of the transit facilities under its jurisdiction,  
7 including without limitation rules relating to the protection or mainte-  
8 nance of such facilities, the conduct and safety of the public, the  
9 payment of fares or other lawful charges for the use of such facilities,  
10 the presentation or display of documentation permitting free passage,  
11 reduced fare passage or full fare passage on such facilities and the  
12 protection of the revenue of the authority. Violations of such rules  
13 shall be an offense punishable by a fine of not exceeding twenty-five  
14 dollars or by imprisonment for not longer than ten days, or both, or may  
15 be punishable by the imposition by the transit adjudication bureau  
16 established pursuant to the provisions of this title of a civil penalty  
17 in an amount for each violation not to exceed [one] FIVE hundred dollars  
18 (exclusive of interest or costs assessed thereon), in accordance with a  
19 schedule of such penalties as may from time to time be established by  
20 rules of the authority. Such schedule of penalties may provide for the  
21 imposition of additional penalties, not to exceed a total of [fifty] ONE  
22 HUNDRED dollars for each violation, upon the failure of a respondent in  
23 any proceeding commenced with respect to any such violation to make  
24 timely response to or appearance in connection with a notice of

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

LBD13312-01-1

1 violation of such rule or to any subsequent notice or order issued by  
2 the authority in such proceeding. There shall be no penalty or increment  
3 in fine by virtue of a respondent's timely exercise of his right to a  
4 hearing or appeal. The rules may provide, in addition to any other sanc-  
5 tions, for the confiscation of tokens, tickets, cards or other fare  
6 media that have been forged, counterfeit, improperly altered or trans-  
7 ferred, or otherwise used in a manner inconsistent with such rules.

8 S 2. Paragraph b of subdivision 4 of section 1209-a of the public  
9 authorities law, as amended by chapter 379 of the laws of 1992, is  
10 amended to read as follows:

11 b. To impose civil penalties not to exceed a total of [one] SIX  
12 hundred [fifty] dollars for any transit infraction within its jurisdic-  
13 tion, in accordance with a penalty schedule established by the authority  
14 except that penalties for violations of the health code of the city of  
15 New York shall be in accordance with the penalties established for such  
16 violations by the board of health of the city of New York, and penalties  
17 for violations of the noise code of the city of New York shall be in  
18 accordance with the penalties established for such violations by law,  
19 and civil penalties for violations of the rules and regulations of the  
20 triborough bridge and tunnel authority shall be in accordance with the  
21 penalties established for such violations by section [two thousand nine]  
22 TWENTY-NINE hundred eighty-five of this chapter;

23 S 3. Paragraphs a and g of subdivision 7 of section 1209-a of the  
24 public authorities law, as amended by chapter 379 of the laws of 1992,  
25 are amended to read as follows:

26 a. (1) A person charged with a transit infraction returnable to the  
27 bureau or a person alleged to be liable in accordance with the  
28 provisions of section [two thousand nine] TWENTY-NINE hundred eighty-  
29 five of this chapter who contests such allegation shall be advised of  
30 the date on or by which he or she must appear to answer the charge at a  
31 hearing. Notification of such hearing date shall be given either in the  
32 notice of violation or in a form, the content of which shall be  
33 prescribed by the executive director or in a manner prescribed in  
34 section [two thousand nine] TWENTY-NINE hundred eighty-five of this  
35 chapter. Any such notification shall contain a warning to advise the  
36 person charged that failure to appear on or by the date designated, or  
37 any subsequent rescheduled or adjourned date, shall be deemed for all  
38 purposes, an admission of liability, and that a default judgment may be  
39 rendered and penalties may be imposed. Where notification is given in a  
40 manner other than in the notice of violation, the bureau shall deliver  
41 such notice to the person charged, either personally or by [registered  
42 or certified] FIRST CLASS mail.

43 (2) Whenever a person charged with a transit infraction or alleged to  
44 be liable in accordance with the provisions of section [two thousand  
45 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the  
46 bureau requests an alternate hearing date and is not then in default as  
47 defined in subdivision six of this section, the bureau shall advise such  
48 person personally, or by [registered or certified] FIRST CLASS mail, of  
49 the alternate hearing date on or by which he or she must appear to  
50 answer the charge or allegation at a hearing. The form and content of  
51 such notice of hearing shall be prescribed by the executive director,  
52 and shall contain a warning to advise the person charged or alleged to  
53 be liable that failure to appear on or by the alternate designated hear-  
54 ing date, or any subsequent rescheduled or adjourned date, shall be  
55 deemed for all purposes an admission of liability, and that a default  
56 judgment may be rendered and penalties may be imposed.

1 (3) Whenever a person charged with a transit infraction or alleged to  
2 be liable in accordance with the provisions of section [two thousand  
3 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the  
4 bureau appears at a hearing and obtains an adjournment of the hearing  
5 pursuant to the rules of the bureau, the bureau shall advise such person  
6 personally, or by [registered or certified] FIRST CLASS mail, of the  
7 adjourned date on which he or she must appear to answer the charge or  
8 allegation at a continued hearing. The form and content of such notice  
9 of a continued hearing shall be prescribed by the executive director,  
10 and shall contain a warning to advise the person charged or alleged to  
11 be liable that failure to appear on the adjourned hearing date shall be  
12 deemed for all purposes an admission of liability, and that a default  
13 judgment may be rendered and penalties may be imposed.

14 g. After due consideration of the evidence and arguments, the hearing  
15 officer shall determine whether the charges or allegations have been  
16 established. No charge may be established except upon proof by clear and  
17 convincing evidence except allegations of civil liability for violations  
18 of triborough bridge and tunnel authority rules and regulations will be  
19 established in accordance with the provisions of section [two thousand  
20 nine] TWENTY-NINE hundred eighty-five of this chapter. Where the charges  
21 have not been established, an order dismissing the charges or allega-  
22 tions shall be entered. Where a determination is made that a charge or  
23 allegation has been established or if an answer admitting the charge or  
24 allegation has been received, the hearing officer shall set a penalty in  
25 accordance with the penalty schedule established by the authority, or  
26 for allegations of civil liability in accordance with the provisions of  
27 section [two thousand nine] TWENTY-NINE hundred eighty-five of this  
28 chapter and an appropriate order shall be entered in the records of the  
29 bureau. The respondent shall be given notice of such entry in person or  
30 by [certified] FIRST CLASS mail. This order shall constitute the final  
31 determination of the hearing officer, and for purposes of review it  
32 shall be deemed to incorporate any intermediate determinations made by  
33 said officer in the course of the proceeding. When no appeal is filed  
34 this order shall be the final order of the bureau.

35 S 4. Paragraph d of subdivision 8 of section 1209-a of the public  
36 authorities law, as amended by chapter 379 of the laws of 1992, is  
37 amended to read as follows:

38 d. Appeals shall be made without the appearance of the appellant and  
39 appellant's attorney unless the presence of either or both are requested  
40 by the appellant, appellant's attorney, appellant's parent or guardian  
41 if appellant is a minor, or the appeals board. Within twenty days after  
42 a request for an appearance, made by or for the appellant, appellant's  
43 attorney or the board, the bureau shall advise the appellant, either  
44 personally or by [registered or certified] FIRST CLASS mail, of the date  
45 on which he or she shall appear. The appellant shall be notified in  
46 writing of the decision of the appeals board.

47 S 5. This act shall take effect immediately.