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2011-2012 Regular Sessions

I N  A S S E M B L Y

March 16, 2011

Introduced by M. of A. TOWNS, REILLY, STEVENSON, SPANO -- Multi-Sponsored by -- M. of A. BOYLAND, CALHOUN, GOODELL, McLAUGHLIN -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to reporting of drivers who pass a stopped school bus and the sanctions therefor

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

Section 1. The vehicle and traffic law is amended by adding a new section 1174-a to read as follows:

S 1174-A. PASSING OF STOPPED SCHOOL BUS; REPORTING BY SCHOOL BUS OPERATORS AND INDIVIDUALS. (A) THE OPERATOR OF A SCHOOL BUS OR ANY INDIVIDUAL WHO OBSERVES A VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS ARTICLE MAY SUBMIT A SIGNED REPORT, ON A FORM PREPARED BY THE COMMISSIONER, WHICH INDICATES THAT A VIOLATION OCCURRED. SUCH REPORT SHALL INCLUDE BUT NOT BE LIMITED TO THE FOLLOWING INFORMATION:

1. THE DATE AND APPROXIMATE TIME OF THE VIOLATION;

2. A DESCRIPTION OF THE ALLEGED VIOLATOR, OR THE IDENTITY OF THE VIOLATOR, IF KNOWN TO THE SCHOOL BUS OPERATOR OR INDIVIDUAL; AND

3. THE LICENSE NUMBER AND THE TYPE, MODEL, OR OTHER IDENTIFYING CHARACTERISTICS OF THE VEHICLE.

SUCH REPORT SHALL BE DELIVERED TO A LOCAL LAW ENFORCEMENT OFFICER WITHIN FORTY-EIGHT HOURS, AND SUCH OFFICER SHALL FORWARD A COPY TO THE COMMISSIONER.

(B) A DRIVER OF A SCHOOL BUS WHO KNOWINGLY FILES FALSE INFORMATION IN THE REPORT REQUIRED BY THIS SECTION SHALL BE SUBJECT TO THE DISQUALIFICATION SPECIFIED IN PARAGRAPHS (B) AND (C) OF SUBDIVISIONS ONE AND TWO OF SECTION FIVE HUNDRED NINE-C OF THIS CHAPTER, IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW. ANY INDIVIDUAL WHO KNOWINGLY FILES FALSE INFORMATION IN THE REPORT REQUIRED BY THIS SECTION SHALL BE SUBJECT TO A VIOLATION, PUNISHABLE BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS.

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

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(C) UPON THE REPORT OF THE INFORMATION SPECIFIED IN SUBDIVISION (A) OF THIS SECTION, SUCH LAW ENFORCEMENT OFFICER SHALL ISSUE A SUMMONS TO THE VIOLATOR OR SHALL INITIATE AN INVESTIGATION BASED ON THE INFORMATION SO PROVIDED. A NOTICE OF VIOLATION SHALL BE SENT TO THE PERSON OR ENTITY IN WHOSE NAME THE VEHICLE IS REGISTERED. THE OWNER OR LESSEE OF SUCH VEHICLE SHALL, UPON RECEIPT OF A NOTICE OF VIOLATION ISSUED BY THE ENFORCEMENT BUREAU OF THE MUNICIPALITY HAVING JURISDICTION, IDENTIFY THE OPERATOR OF THE VEHICLE AT THE TIME OF THE ALLEGED VIOLATION, TO THE BEST OF THE OWNER'S OR LESSEE'S ABILITY TO DO SO. FAILURE TO DO SO SHALL CONSTITUTE A VIOLATION OF SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS ARTICLE AND SUCH LESSEE OR OWNER SHALL BE SUBJECT TO THE MONETARY PENALTIES SPECIFIED IN SUCH SECTION.

(D) 1. A NOTICE OF VIOLATION SHALL BE SENT BY FIRST CLASS MAIL TO EACH PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF THIS SECTION. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.

2. A NOTICE OF VIOLATION SHALL CONTAIN THE NAME AND ADDRESS OF THE PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF THIS SECTION, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE, THE DATE AND TIME OF SUCH VIOLATION.

3. A NOTICE OF THE VIOLATION SHALL CONTAIN INFORMATION ADVISING THE PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST THE VIOLATION ALLEGED IN THE NOTICE, AND SHALL ALSO CONTAIN A WARNING TO ADVISE THE PERSONS CHARGED THAT FAILURE TO CONTEST IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABILITY AND THAT A DEFAULT JUDGEMENT MAY BE ENTERED THEREON.

(E) ADJUDICATION OF THE VIOLATION PRESCRIBED BY THIS SECTION SHALL BE BY A TRAFFIC VIOLATIONS BUREAU ESTABLISHED PURSUANT TO SECTION THREE HUNDRED SEVENTY OF THE GENERAL MUNICIPAL LAW OR, IF THERE BE NONE, BY THE COURT HAVING JURISDICTION OVER TRAFFIC INFRACTIONS.

(F) ANY REGISTERED OWNER OR REGISTRANT WHICH IS AN AUTOMOBILE RENTAL OR LEASING COMPANY AND WHICH RECEIVES A NOTIFICATION UNDER THIS SECTION SHALL DELIVER OR MAIL A COPY OF THE RENTAL OR LEASING AGREEMENT COVERING THE VEHICLE ON THAT DATE, WITH THE NAME AND ADDRESS OF THE LESSEE CLEARLY LEGIBLE, WITHIN FIFTEEN DAYS TO THE APPROPRIATE MUNICIPAL AGENCY WHICH ISSUED SUCH NOTICE OF VIOLATION. FAILURE TO SEND SUCH INFORMATION WITHIN THE PRESCRIBED TIME PERIOD SHALL RENDER SUCH REGISTERED OWNER OR REGISTRANT RESPONSIBLE FOR THE MONETARY PENALTY PRESCRIBED IN THIS SECTION.

(G) IF A REGISTRANT, LESSEE, OR OPERATOR RECEIVES A NOTICE OF VIOLATION AS PRESCRIBED BY THIS SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS STOLEN, SUCH PERSON SHALL NOT BE RESPONSIBLE FOR THE VIOLATION PROVIDING THAT A COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE IS FORWARDED WITHIN FIFTEEN DAYS TO THE ENFORCEMENT BUREAU OF THE MUNICIPALITY HAVING JURISDICTION. FAILURE TO SEND SUCH INFORMATION WITHIN SUCH FIFTEEN DAY TIME PERIOD SHALL RENDER SUCH PERSON RESPONSIBLE FOR THE MONETARY PENALTY PRESCRIBED BY SECTION ELEVEN HUNDRED SEVENTY-FOUR OF THIS ARTICLE.

(H) IF THE REGISTRANT OR LESSEE WAS NOT THE OPERATOR OF THE VEHICLE AT THE TIME OF THE VIOLATION, THE REGISTRANT MAY MAINTAIN A CAUSE OF ACTION TO RECOVER FROM THE OPERATOR ANY PENALTY IMPOSED UNDER THIS SECTION IN ADDITION TO ANY OTHER DAMAGES SUFFERED BY THE REGISTRANT OR LESSEE RESULTING FROM THE VIOLATION.

S 2. Paragraph b of subdivision 2 of section 510 of the vehicle and traffic law is amended by adding a new subparagraph (xvi) to read as follows:

(XVI) UNTIL THE HOLDER RESPONDS TO A SUMMONS ISSUED PURSUANT TO SECTION ELEVEN HUNDRED SEVENTY-FOUR-A OF THIS CHAPTER OR COMPLIES WITH THE FINAL DECISION OF A COURT OR ADMINISTRATIVE TRIBUNAL OF APPROPRIATE JURISDICTION WITH REGARD TO SUCH SUMMONS.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.