

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to establishing in the city of New York a demonstration program to enforce street cleaning parking rules by means of street cleaning vehicle photo devices

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

1 Section 1. Paragraph f of subdivision 1 of section 239 of the vehicle  
2 and traffic law, as amended by section 4 of part II of chapter 59 of the  
3 laws of 2010, is amended to read as follows:  
4 f. "Notice of violation" means a notice of violation as defined in  
5 subdivision nine of section two hundred thirty-seven of this article,  
6 but shall not be deemed to include a notice of liability issued pursuant  
7 to authorization set forth in section eleven hundred eleven-a of this  
8 chapter or sections eleven hundred eleven-b of this chapter as added by  
9 sections sixteen of chapters twenty, twenty-one, and twenty-two of the  
10 laws of two thousand nine, and shall not be deemed to include a notice  
11 of liability issued pursuant to section two thousand nine hundred eight-  
12 y-five of the public authorities law and sections sixteen-a, sixteen-b  
13 and sixteen-c of chapter seven hundred seventy-four of the laws of nine-  
14 teen hundred fifty and shall not be deemed to include a notice of  
15 liability issued pursuant to section eleven hundred eleven-c of this  
16 chapter AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED  
17 PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-D OF THIS CHAPTER.  
18 S 1-a. Paragraph f of subdivision 1 of section 239 of the vehicle and  
19 traffic law, as amended by section 4-a of part II of chapter 59 of the  
20 laws of 2010, is amended to read as follows:  
21 f. "Notice of violation" means a notice of violation as defined in  
22 subdivision nine of section two hundred thirty-seven of this article but

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

1 shall not be deemed to include a notice of liability issued pursuant to  
2 authorization set forth in sections eleven hundred eleven-b of this  
3 chapter as added by sections sixteen of chapters twenty, twenty-one, and  
4 twenty-two of the laws of two thousand nine and shall not be deemed to  
5 include a notice of liability issued pursuant to section eleven hundred  
6 eleven-c of this chapter AND SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF  
7 LIABILITY ISSUED PURSUANT TO SECTION ELEVEN HUNDRED ELEVEN-D OF THIS  
8 CHAPTER.

9 S 1-b. Paragraph f of subdivision 1 of section 239 of the vehicle and  
10 traffic law, as amended by section 4-b of part II of chapter 59 of the  
11 laws of 2010, is amended to read as follows:

12 f. "Notice of violation" means a notice of violation as defined in  
13 subdivision nine of section two hundred thirty-seven of this article and  
14 shall not be deemed to include a notice of liability issued pursuant to  
15 section eleven hundred eleven-c of this chapter AND SHALL NOT BE DEEMED  
16 TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO SECTION ELEVEN  
17 HUNDRED ELEVEN-D OF THIS CHAPTER.

18 S 1-c. Paragraph f of subdivision 1 of section 239 of the vehicle and  
19 traffic law, as added by chapter 180 of the laws of 1980, is amended to  
20 read as follows:

21 f. "Notice of violation" means a notice of violation as defined in  
22 subdivision nine of section two hundred thirty-seven of this article AND  
23 SHALL NOT BE DEEMED TO INCLUDE A NOTICE OF LIABILITY ISSUED PURSUANT TO  
24 SECTION ELEVEN HUNDRED ELEVEN-D OF THIS CHAPTER.

25 S 2. Subdivision 4 of section 239 of the vehicle and traffic law, as  
26 amended by chapter 379 of the laws of 1992, is amended to read as  
27 follows:

28 4. Applicability. The provisions of paragraph b of subdivision two and  
29 subdivision three of this section shall not be applicable to determi-  
30 nations of owner liability for the failure of an operator to comply with  
31 subdivision (d) of section eleven hundred eleven of this chapter and  
32 shall not be applicable to determinations of owner liability imposed  
33 pursuant to section two thousand nine hundred eighty-five of the public  
34 authorities law and sections sixteen-a, sixteen-b and sixteen-c of chap-  
35 ter seven hundred seventy-four of the laws of nineteen hundred fifty AND  
36 SHALL NOT BE APPLICABLE TO DETERMINATIONS OF OWNER LIABILITY IN ACCORD-  
37 ANCE WITH SECTION ELEVEN HUNDRED ELEVEN-D OF THIS CHAPTER FOR VIOLATIONS  
38 OF STREET CLEANING PARKING RULES AS DEFINED IN SUCH SECTION.

39 S 2-a. Section 239 of the vehicle and traffic law is amended by adding  
40 a new subdivision 4 to read as follows:

41 4. APPLICABILITY. THE PROVISIONS OF PARAGRAPH B OF SUBDIVISION TWO AND  
42 SUBDIVISION THREE OF THIS SECTION SHALL NOT BE APPLICABLE TO DETERMI-  
43 NATIONS OF OWNER LIABILITY IN ACCORDANCE WITH SECTION ELEVEN HUNDRED  
44 ELEVEN-D OF THIS CHAPTER FOR VIOLATIONS OF STREET CLEANING PARKING RULES  
45 AS DEFINED IN SUCH SECTION.

46 S 3. The vehicle and traffic law is amended by adding a new section  
47 1111-d to read as follows:

48 S 1111-D. OWNER LIABILITY FOR FAILURE TO COMPLY WITH STREET CLEANING  
49 PARKING RULES. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
50 CITY OF NEW YORK IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A  
51 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAIL-  
52 URE TO COMPLY WITH STREET CLEANING PARKING RULES IN SUCH CITY IN ACCORD-  
53 ANCE WITH THE PROVISIONS OF THIS SECTION. THE NEW YORK CITY DEPARTMENT  
54 OF SANITATION, FOR PURPOSES OF THE IMPLEMENTATION OF SUCH PROGRAM, SHALL  
55 OPERATE STREET CLEANING VEHICLE PHOTO DEVICES ON STREET CLEANING VEHI-  
56 CLES ALONG ONE SELECT STREET CLEANING ROUTE IN NO MORE THAN TWENTY-FIVE

1 SANITATION SERVICE DISTRICTS IN SUCH CITY. SUCH STREET CLEANING VEHICLE  
2 PHOTO DEVICES SHALL BE ACTIVATED AT LOCATIONS DETERMINED BY SUCH DEPART-  
3 MENT.

4 2. THE CITY OF NEW YORK SHALL ADOPT AND ENFORCE MEASURES:

5 (I) TO ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY  
6 SUCH STREET CLEANING VEHICLE PHOTO DEVICES SHALL NOT INCLUDE IMAGES THAT  
7 IDENTIFY ANY PERSON OR PERSONS WHO MAY BE OCCUPYING THE VEHICLE, OR THE  
8 CONTENTS OF THE VEHICLE. HOWEVER, A NOTICE OF LIABILITY ISSUED PURSUANT  
9 TO THIS SECTION SHALL NOT BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH OR  
10 PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF A PERSON OR PERSONS WHO MAY  
11 BE OCCUPYING THE VEHICLE OR THE CONTENTS OF A VEHICLE;

12 (II) TO UPGRADE SIGNAGE AT REGULAR INTERVALS WITHIN SELECT STREET  
13 CLEANING ROUTES STATING THAT STREET CLEANING VEHICLE PHOTO DEVICES ARE  
14 USED TO ENFORCE STREET CLEANING PARKING RULES ALONG SUCH ROUTES; AND

15 (III) TO PROHIBIT THE USE OR DISSEMINATION OF VEHICLES' LICENSE PLATE  
16 INFORMATION AND OTHER INFORMATION AND IMAGES CAPTURED BY STREET CLEANING  
17 VEHICLE PHOTO DEVICES EXCEPT: (A) AS REQUIRED TO ESTABLISH LIABILITY  
18 UNDER THIS SECTION OR COLLECT PAYMENT OF PENALTIES; (B) AS REQUIRED BY  
19 COURT ORDER; OR (C) AS OTHERWISE REQUIRED BY LAW.

20 (B) IF THE CITY OF NEW YORK HAS ESTABLISHED A PROGRAM PURSUANT TO  
21 SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE  
22 FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS  
23 PARKED IN VIOLATION OF ANY STREET CLEANING PARKING RULE OF SUCH CITY AND  
24 SUCH VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM A STREET CLEAN-  
25 ING VEHICLE PHOTO DEVICE.

26 (C) FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE  
27 FOLLOWING MEANINGS:

28 1. "OWNER" SHALL HAVE THE MEANING PROVIDED IN ARTICLE TWO-B OF THIS  
29 CHAPTER.

30 2. "SANITATION SERVICE DISTRICT" SHALL MEAN A GEOGRAPHIC AREA THAT  
31 LIES WITHIN THE BOUNDARIES OF A SINGLE BOROUGH OF THE CITY OF NEW YORK  
32 AND THAT IS COTERMINOUS WITH A COMMUNITY DISTRICT PURSUANT TO CHAPTER  
33 SIXTY-NINE OF THE NEW YORK CITY CHARTER.

34 3. "SELECT STREET CLEANING ROUTES" SHALL MEAN STREET CLEANING ROUTES  
35 DESIGNATED BY THE NEW YORK CITY DEPARTMENT OF SANITATION THAT INCLUDE  
36 UPGRADED SIGNAGE STATING THAT STREET CLEANING VEHICLE PHOTO DEVICES ARE  
37 USED TO ENFORCE STREET CLEANING PARKING RULES.

38 4. "STREET CLEANING PARKING RULES" SHALL MEAN THE PROHIBITED PARKING  
39 OF ANY VEHICLE ON ONE SIDE OF THE STREET TO ALLOW FOR CLEANING BY THE  
40 NEW YORK CITY DEPARTMENT OF SANITATION DURING DESIGNATED TIME PERIODS AS  
41 POSTED BY SIGN.

42 5. "STREET CLEANING VEHICLE" SHALL MEAN ANY VEHICLE OPERATED BY THE  
43 NEW YORK CITY DEPARTMENT OF SANITATION THAT IS DESIGNED TO WASH DIRT AND  
44 GRIME, AND REMOVE LITTER AND DEBRIS, FROM THE STREET SURFACE.

45 6. "STREET CLEANING VEHICLE PHOTO DEVICE" SHALL MEAN A DEVICE THAT IS  
46 MOUNTED ON A STREET CLEANING VEHICLE, IS CAPABLE OF OPERATING INDEPEND-  
47 ENTLY OF AN ENFORCEMENT OFFICER AND PRODUCES ONE OR MORE IMAGES OF EACH  
48 VEHICLE AT THE TIME IT IS IN VIOLATION OF STREET CLEANING PARKING RULES.

49 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY  
50 THE CITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE THERE-  
51 OF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE  
52 OR OTHER RECORDED IMAGES PRODUCED BY A STREET CLEANING VEHICLE PHOTO  
53 DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.  
54 ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE OR OTHER RECORDED IMAGES  
55 EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY

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

3 (E) AN OWNER LIABLE FOR A VIOLATION OF A STREET CLEANING PARKING RULE  
4 IMPOSED ON ANY ROUTE SHALL BE LIABLE FOR MONETARY PENALTIES IN ACCORD-  
5 ANCE WITH A SCHEDULE OF FINES AND PENALTIES PROMULGATED BY THE PARKING  
6 VIOLATIONS BUREAU OF THE CITY OF NEW YORK; PROVIDED, HOWEVER, THAT THE  
7 MONETARY PENALTY FOR VIOLATING A STREET CLEANING PARKING RULE SHALL NOT  
8 EXCEED SIXTY-FIVE DOLLARS; PROVIDED, FURTHER, THAT AN OWNER SHALL BE  
9 LIABLE FOR AN ADDITIONAL PENALTY NOT TO EXCEED TWENTY-FIVE DOLLARS FOR  
10 EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITH-  
11 IN THE PRESCRIBED TIME PERIOD.

12 (F) 1. A NOTICE OF LIABILITY SHALL BE SENT BY FIRST CLASS MAIL TO EACH  
13 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR A VIOLATION OF A STREET  
14 CLEANING PARKING RULE. PERSONAL DELIVERY ON THE OWNER SHALL NOT BE  
15 REQUIRED. A MANUAL OR AUTOMATIC RECORD OF MAILING PREPARED IN THE ORDI-  
16 NARY COURSE OF BUSINESS SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS  
17 CONTAINED THEREIN.

18 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE  
19 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR VIOLATION OF A STREET CLEAN-  
20 ING PARKING RULE, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN  
21 SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE INCLUDING  
22 THE STREET OR CROSS STREETS, ONE OR MORE IMAGES IDENTIFYING THE  
23 VIOLATION, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION  
24 NUMBER OF THE STREET CLEANING VEHICLE PHOTO DEVICE THAT RECORDED THE  
25 VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

26 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE  
27 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST  
28 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO  
29 CONTAIN A WARNING TO ADVISE THE PERSON CHARGED THAT FAILURE TO CONTEST  
30 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-  
31 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

32 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY  
33 OR AGENCIES DESIGNATED BY THE CITY OF NEW YORK, OR ANY OTHER ENTITY  
34 AUTHORIZED BY SUCH CITY TO PREPARE AND MAIL SUCH NOTIFICATION OF  
35 VIOLATION.

36 5. ADJUDICATION OF THE LIABILITY IMPOSED UPON OWNERS BY THIS SECTION  
37 SHALL BE BY THE NEW YORK CITY PARKING VIOLATIONS BUREAU.

38 (G) IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT  
39 TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS  
40 REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A  
41 VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR VIOLATION OF A STREET  
42 CLEANING PARKING RULE OF SUCH CITY, THAT THE VEHICLE HAD BEEN REPORTED  
43 TO THE POLICE AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD  
44 NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE  
45 PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT A CERTIFIED  
46 COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS  
47 MAIL TO THE PARKING VIOLATIONS BUREAU.

48 (H) 1. AN OWNER WHO IS A LESSOR OF A VEHICLE TO WHICH A NOTICE OF  
49 LIABILITY WAS ISSUED PURSUANT TO SUBDIVISION (F) OF THIS SECTION SHALL  
50 NOT BE LIABLE FOR THE VIOLATION OF THE STREET CLEANING PARKING RULE,  
51 PROVIDED THAT:

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

55 (II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU  
56 OF THE DATE AND TIME OF SUCH LIABILITY, TOGETHER WITH THE OTHER INFORMA-

1 TION CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS  
2 TO SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE  
3 IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION,  
4 TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL,  
5 LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH  
6 BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

7 2. FAILURE TO COMPLY WITH SUBPARAGRAPH (II) OF PARAGRAPH ONE OF THIS  
8 SUBDIVISION SHALL RENDER THE LESSOR LIABLE FOR THE PENALTY PRESCRIBED IN  
9 THIS SECTION.

10 3. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH ONE OF  
11 THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH  
12 VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES  
13 OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSU-  
14 ANT TO THIS SECTION, AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO  
15 SUBDIVISION (F) OF THIS SECTION.

16 S 4. Subdivision 2 of section 87 of the public officers law is amended  
17 by adding a new paragraph (m) to read as follows:

18 (M) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE OR OTHER RECORDED  
19 IMAGES PRODUCED BY A STREET CLEANING VEHICLE PHOTO DEVICE PREPARED UNDER  
20 AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-D OF THE VEHICLE AND TRAFFIC  
21 LAW.

22 S 5. This act shall take effect on the one hundred eightieth day after  
23 it shall have become a law; provided that:

24 (a) the amendments to paragraph f of subdivision 1 of section 239 of  
25 the vehicle and traffic law made by section one of this act shall not  
26 affect the expiration of such paragraph and shall be deemed to expire  
27 therewith, when upon such date the provisions of section one-a of this  
28 act shall take effect, provided, further, that the amendments to para-  
29 graph f of subdivision 1 of section 239 of the vehicle and traffic law  
30 made by section one-a of this act shall not affect the expiration of  
31 such paragraph and shall be deemed to expire therewith, when upon such  
32 date the provisions of section one-b of this act shall take effect,  
33 provided, further, that the amendments to paragraph f of subdivision 1  
34 of section 239 of the vehicle and traffic law made by section one-b of  
35 this act shall not affect the expiration of such paragraph and shall be  
36 deemed to expire therewith, when upon such date the provisions of  
37 section one-c of this act shall take effect; and

38 (b) the amendments to subdivision 4 of section 239 of the vehicle and  
39 traffic law made by section two of this act shall not affect the repeal  
40 of such subdivision and shall be deemed to be repealed therewith, when  
41 upon such date the provisions of section two-a of this act shall take  
42 effect.