S T A T E O F N E W Y O R K

7593

I N S E N A T E

May 15, 2014

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the public authorities law, the vehicle and traffic law and chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, in relation to liability of vehicle owners for toll collection violations

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

Section 1. Section 2985 of the public authorities law is designated title 11-A and a new title heading is added to read as follows:

TOLL COLLECTIONS

S 2. Subdivision 1 of section 2985 of the public authorities law, as added by chapter 379 of the laws of 1992, is amended to read as follows:

1. Notwithstanding any other provision of law, every public authority which operates a toll highway bridge and/or tunnel facility is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure [of an operator thereof] to comply with the toll collection regulations of such public authority in accordance with the provisions of this section.

S 3. Subdivision 5 of section 2985 of the public authorities law, as added by chapter 379 of the laws of 1992, is amended to read as follows:

5. An owner found liable for a violation of toll collection regulations pursuant to this section shall for a first violation thereof be liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED dollars or two times the toll evaded whichever is greater; for a second violation thereof both within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [one] TWO hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a

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

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monetary penalty not to exceed [one] THREE hundred [fifty] dollars or ten times the toll evaded whichever is greater.

S 4. Paragraphs (a) and (b) of subdivision 7 of section 2985 of the public authorities law, as added by chapter 379 of the laws of 1992, are amended to read as follows:

(a) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of toll collection regulations. Such notice shall be mailed no later than [thirty] SIXTY days after the alleged violation. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of the notice.

(b) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of toll collection regulations pursuant to this section, the registration number AND STATE OF REGISTRATION of the vehicle involved in such violation, the [location where such violation took place, the date and time] LOCATIONS, DATES AND TIMES of such violation, THE AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES, and the identification number of the photo-monitoring system which recorded the violation or other document locator number.

S 5. Subdivision 8 of section 2985 of the public authorities law, as added by chapter 379 of the laws of 1992, is amended to read as follows:

8. Adjudication of the liability imposed upon owners by this section shall be by the entity having jurisdiction over violations of the rules and regulations of the public authority serving the notice of liability or where authorized by an administrative tribunal and all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a facility, and in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal as the case may be. THE ENTITY OR ADMINISTRATIVE TRIBUNAL THAT ADJUDICATES LIABILITY FOR A VIOLATION SHALL COLLECT THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO THE MONETARY PENALTY OWED, AND SHALL PAY TO THE PUBLIC AUTHORITY WHOSE TOLL COLLECTION REGULATIONS WERE VIOLATED THE HALF AMOUNT OF THE ASSESSED TOLLS, FULL AMOUNT OF OTHER CHARGES AND FEES AND ONE-HALF OF THE MONETARY PENALTY, AND DEPOSIT REMAINING HALF AMOUNT OF THE ASSESSED TOLLS INTO THE HIGHWAY AND BRIDGE CAPITAL ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

S 6. Subdivision 10 of section 2985 of the public authorities law, as amended by chapter 666 of the laws of 1993, is amended to read as follows:

10. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of the toll collection regulation provided that he or she sends to the public authority serving the notice of liability and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving [the original] notice of liability. Failure to send such information within such thirty day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the

provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of toll collection regulations, provided that the public authority mails a notice of liability to the lessee within ten days after the court, or other entity having jurisdiction, deems the lessee to be the owner. For purposes of this subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

S 7. Section 2985 of the public authorities law is amended by adding two new subdivisions 15 and 16 to read as follows:

15. IN ADDITION TO ANY MONETARY LIABILITY THAT MAY BE IMPOSED PURSUANT TO THIS SECTION, A PUBLIC AUTHORITY THAT OPERATES A TOLL HIGHWAY, BRIDGE OR TUNNEL FACILITY IS HEREBY AUTHORIZED AND EMPOWERED TO IMPOSE AN ADMINISTRATIVE FEE OR FEES ON AN OWNER, AN OPERATOR OR AN ACCOUNT HOLDER THAT HAS VIOLATED TOLL COLLECTION REGULATIONS.

16. ANY NOTICE REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY FIRST CLASS MAIL MAY INSTEAD BE SENT, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION. A MANUAL OR AUTOMATIC RECORD OF ELECTRONIC COMMUNICATIONS PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE ADEQUATE EVIDENCE OF ELECTRONIC NOTICE.

S 8. Paragraph b of subdivision 2 of section 240 of the vehicle and traffic law, as added by chapter 715 of the laws of 1972, is amended to read as follows:

b. No charge may be established except upon proof by substantial evidence; EXCEPT THAT FOR 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, NO CHARGE MAY BE ESTABLISHED EXCEPT UPON PROOF BY PREPONDERANCE OF EVIDENCE AS SUBMITTED.

S 9. Section 1209-a of the public authorities law is amended by adding a new subdivision 11 to read as follows:

11. NOTICE. ANY NOTICE OR COMMUNICATION REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY REGISTERED MAIL OR CERTIFIED MAIL MAY INSTEAD BE SENT BY FIRST CLASS MAIL OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION.

S 10. Section 2 of chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, is amended to read as follows:

S 2. No traffic shall be permitted in or upon vehicular crossings except upon the payment of such tolls and other charges as may from time to time be prescribed by the port authority. It is hereby declared to be unlawful for any person to refuse to pay, or to evade or to attempt to evade the payment of such tolls or other charges. THE OBLIGATION TO PAY SUCH TOLLS AND OTHER CHARGES IS INCURRED AT THE TIME OF ENTRY INTO OR USE OF THE PARTICULAR VEHICULAR CROSSING.

S 11. Section 16-a of chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regu-

lations governing traffic on vehicular crossings operated by the port of New York authority, as added by chapter 379 of the laws of 1992, is amended to read as follows:

S 16-a. Owner liability for failure of operator to comply with toll collection regulations of the port authority. Notwithstanding any other provision of law and in accordance with the provisions of [section] SECTIONS 16-b AND 16-C of this act, an owner of a vehicle may be held liable for failure of an operator thereof to comply with the toll collection regulations of the port authority of New York and New Jersey (hereinafter called port authority). The owner of a vehicle shall be liable pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of the toll collection regulations of the port authority, and such violation is evidenced by information obtained from a photo-monitoring system, provided, however, that no owner of a vehicle shall be liable where the operator of such vehicle has been convicted of a violation of those toll collection regulations for the same incident.

S 12. Subdivision d of section 16-b of chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, as added by chapter 379 of the laws of 1992, is amended to read as follows:

d. (i) A notice of liability shall be sent by first class mail OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION to each person alleged to be liable as an owner for a violation pursuant to this section of the toll collection regulations of the port authority. Such notice shall be [mailed] SENT no later than [thirty] SIXTY days after the alleged violation. Personal delivery on the owner shall not be required. A manual or automatic record of [mailing] SENDING THE NOTICE prepared in the ordinary course of business shall be prima facie evidence of the [mailing] SENDING of the notice.

(ii) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of the toll collection regulations of the port authority pursuant to this section, the registration number AND STATE OF REGISTRATION of the vehicle involved in such violation, the [location where such violation took place, the date and time] LOCATIONS, DATES AND TIMES THAT FORM THE BASIS of such violation, THE AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES and the identification number of the photo-monitoring system which recorded the violation or other document locator number.

(iii) The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability 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 judgment may be entered thereon.

(iv) The notice of liability shall be prepared and [mailed] SENT by the port authority or its duly authorized agent.

S 13. Section 16-c of chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, as added by chapter 379 of the laws of 1992, is amended to read as follows:

S 16-c. Adjudication of liability. Adjudication of the liability imposed upon an owner by section 16-a of this act for a violation of the toll collection regulations of the port authority occurring within the

territorial limits of the state of New York shall be in accordance with the vehicle and traffic law of New York as set forth in sections 235, 236, 237, 239, 240, 241, 401, 510 and 1809 of such law, or by such entity having jurisdiction over violations of the toll collection regulations of the port authority occurring within the territorial limits of the state of New York, provided that all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or by consent of both parties, OR in any county in the state of New York in which the port authority operates or maintains a facility. An owner found liable for a violation of toll collection regulations pursuant to this section shall for a first violation thereof be liable for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED dollars or two times the toll evaded whichever is greater; for a second violation thereof both within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [one] TWO hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [one] THREE hundred [fifty] dollars or ten times the toll evaded whichever is greater. THE HALF AMOUNT OF THE ASSESSED TOLLS, AND THE FULL AMOUNT OF OTHER CHARGES AND FEES AND ONE-HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL BE PAID TO THE PORT AUTHORITY; THE REMAINING HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL BE RETAINED OR DISTRIBUTED BY THE TRIBUNAL OR ENTITY ADJUDICATING THE VIOLATION IN ACCORDANCE WITH EXISTING LAW; AND THE REMAINING HALF AMOUNT OF THE ASSESSED TOLLS SHALL BE DEPOSITED INTO THE HIGHWAY AND BRIDGE CAPITAL ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

S 14. This act shall take effect on the one hundred twentieth day after it shall have become a law.