

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GRISANTI -- 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, in relation to authorizing certain cities to adjudicate traffic infractions

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

1 Section 1. Section 155 of the vehicle and traffic law, as amended by  
2 chapter 628 of the laws of 2002, is amended to read as follows:  
3 S 155. Traffic infraction. The violation of any provision of this  
4 chapter, except articles forty-seven and forty-eight, or of any law,  
5 ordinance, order, rule or regulation regulating traffic which is not  
6 declared by this chapter or other law of this state to be a misdemeanor  
7 or a felony. A traffic infraction is not a crime and the punishment  
8 imposed therefor shall not be deemed for any purpose a penal or criminal  
9 punishment and shall not affect or impair the credibility as a witness  
10 or otherwise of any person convicted thereof. This definition shall be  
11 retroactive and shall apply to all acts and violations heretofore  
12 committed where such acts and violations would, if committed subsequent  
13 to the taking effect of this section, be included within the meaning of  
14 the term "traffic infraction" as herein defined. Except in those  
15 portions of Suffolk county for which a district court has been estab-  
16 lished, outside of cities having a population in excess of two hundred  
17 thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administra-  
18 tive tribunals have heretofore been established AND OUTSIDE OF CITIES  
19 HAVING A POPULATION IN EXCESS OF ONE MILLION IN WHICH ADMINISTRATIVE  
20 TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, courts and judicial officers  
21 heretofore having jurisdiction over such violations shall continue to do  
22 so and for such purpose such violations shall be deemed misdemeanors and  
23 all provisions of law relating to misdemeanors except as provided in  
24 section eighteen hundred five of this chapter and except as herein

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

1 otherwise expressly provided shall apply except that no jury trial shall  
2 be allowed for traffic infractions. In those portions of Suffolk county  
3 for which a district court has been established, and in cities having a  
4 population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED  
5 TWENTY THOUSAND in which administrative tribunals have heretofore been  
6 established AND IN CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION  
7 IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, the  
8 criminal courts of such cities or portions of Suffolk county in which a  
9 district court has been established shall have jurisdiction to hear and  
10 determine any complaint alleging a violation constituting a traffic  
11 infraction, except that administrative tribunals heretofore established  
12 in such cities or portions of Suffolk county in which a district court  
13 has been established shall have jurisdiction to hear and determine any  
14 charge of an offense which is a traffic infraction, except parking,  
15 standing or stopping. In cities having a population in excess of two  
16 hundred thousand in which administrative tribunals have heretofore been  
17 established, and any such administrative tribunal established by the  
18 city of Yonkers, the city of Peekskill, or the city of Syracuse, such  
19 tribunals shall have jurisdiction to hear and determine any charge of an  
20 offense which is a parking, standing or stopping violation. Any fine  
21 imposed by an administrative tribunal shall be a civil penalty. For  
22 purposes of arrest without a warrant, pursuant to article one hundred  
23 forty of the criminal procedure law, a traffic infraction shall be  
24 deemed an offense.

25 S 2. Subdivision 1 of section 225 of the vehicle and traffic law, as  
26 amended by chapter 173 of the laws of 1990, is amended to read as  
27 follows:

28 1. Notwithstanding any inconsistent provision of law, all violations  
29 of this chapter or of a law, ordinance, order, rule or regulation relat-  
30 ing to traffic, except parking, standing, stopping or pedestrian  
31 offenses, which occur within a city having a population of two hundred  
32 thousand or more BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which  
33 administrative tribunals have heretofore been established, OR WITHIN A  
34 CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH ADMINISTRATIVE  
35 TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, or within that portion of  
36 Suffolk county for which a district court has been established, and  
37 which are classified as traffic infractions, may be heard and determined  
38 pursuant to the regulations of the commissioner as provided in this  
39 article. Whenever a crime and a traffic infraction arise out of the same  
40 transaction or occurrence, a charge alleging both offenses may be made  
41 returnable before the court having jurisdiction over the crime. Nothing  
42 herein provided shall be construed to prevent a court, having jurisdic-  
43 tion over a criminal charge relating to traffic or a traffic infraction,  
44 from lawfully entering a judgment of conviction, whether or not based on  
45 a plea of guilty, for any offense classified as a traffic infraction.

46 S 3. Subdivision 1 of section 225 of the vehicle and traffic law, as  
47 amended by chapter 388 of the laws of 2012, is amended to read as  
48 follows:

49 1. Notwithstanding any inconsistent provision of law, all violations  
50 of this chapter or of a law, ordinance, order, rule or regulation relat-  
51 ing to traffic, except parking, standing, stopping or pedestrian  
52 offenses, which occur within a city having a population of two hundred  
53 thousand or more BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which  
54 administrative tribunals have heretofore been established, OR WITHIN A  
55 CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH ADMINISTRATIVE  
56 TRIBUNALS HAVE HERETOFORE, BEEN ESTABLISHED, and which are classified as

1 traffic infractions, may be heard and determined pursuant to the regu-  
2 lations of the commissioner as provided in this article. Whenever a  
3 crime and a traffic infraction arise out of the same transaction or  
4 occurrence, a charge alleging both offenses may be made returnable  
5 before the court having jurisdiction over the crime. Nothing herein  
6 provided shall be construed to prevent a court, having jurisdiction over  
7 a criminal charge relating to traffic or a traffic infraction, from  
8 lawfully entering a judgment of conviction, whether or not based on a  
9 plea of guilty, for any offense classified as a traffic infraction.

10 S 4. Pending actions and proceedings. (a) No proceeding involving a  
11 charge of a traffic infraction pending at such time when an existing  
12 administrative tribunal shall cease to exist shall be affected or abated  
13 by the passage of this act or by anything herein contained or by the  
14 cessation of the existence of any administrative tribunal. All such  
15 proceedings are hereby transferred to the court of appropriate jurisdic-  
16 tion in the city where such traffic infractions allegedly occurred.

17 (b)(i) The agency, department, office, or person charged with the  
18 custody of the records of an existing administrative tribunal which is  
19 about to cease existing under, or in connection with, this act shall  
20 arrange for the transfer of the records of pending proceedings to the  
21 court of appropriate jurisdiction to which the proceedings shall be  
22 transferred. The presiding judge of such court shall enter an order  
23 providing for adequate notice consistent with due process of law to  
24 respondents in such pending proceedings regarding the transfer of such  
25 proceedings.

26 (ii) In no event shall any difficulty or delay resulting from the  
27 transfer process, not caused by the respondent, increase the penalty  
28 required of the respondent appearing before the court due to a transfer  
29 of the traffic infraction proceeding or otherwise prejudice such  
30 respondent. Respondents before the court due to a transfer of the traf-  
31 fic infraction proceeding from an administrative tribunal to the court  
32 that fail to appear shall be permitted at least one adjournment before  
33 the penalties and procedures pursuant to subdivision 3 of section 226 of  
34 the vehicle and traffic law shall be available. The presiding judge of  
35 such court shall enter an order providing for adequate notice consistent  
36 with due process of law to respondents, including notice of the penal-  
37 ties and procedures available pursuant to subdivision 3 of section 226  
38 of the vehicle and traffic law.

39 S 5. This act shall take effect immediately; provided, however, that  
40 section three of this act shall take effect on the same date and in the  
41 same manner as section 8 of chapter 388 of the laws of 2012, takes  
42 effect, and provided, further, that effective immediately, the addition,  
43 amendment and/or repeal of any rule or regulation necessary for the  
44 implementation of this act on its effective date is authorized and  
45 directed to be made and completed on or before such effective date.