

5452--A

Cal. No. 1026

2015-2016 Regular Sessions

I N   S E N A T E

May 14, 2015

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Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the public authorities law, in relation to service by mail provisions of, and jurisdiction over violations occurring on metropolitan transportation authority omnibuses by 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 3 of section 1209-a of the public authorities  
2 law, as amended by chapter 379 of the laws of 1992, is amended to read  
3 as follows:  
4     3. Jurisdiction. The bureau shall have, with respect to acts or inci-  
5 dents in or on the transit facilities of the authority committed by or  
6 involving persons who are sixteen years of age or over, OR WITH RESPECT  
7 TO ACTS OR INCIDENTS OCCURRING ON OMNIBUSES OWNED OR OPERATED BY THE  
8 METROPOLITAN TRANSPORTATION AUTHORITY OR A SUBSIDIARY THEREOF, and with  
9 respect to violation of toll collection regulations of the triborough  
10 bridge and tunnel authority as described in section [two thousand nine]  
11 TWENTY-NINE hundred eighty-five of this chapter, non-exclusive jurisdic-  
12 tion over violations of: (a) the rules which may from time to time be  
13 established by the authority under subdivision five-a of section twelve  
14 hundred four of this chapter; (b) article one hundred thirty-nine of the  
15 health code of the city of New York, as it may be amended from time to  
16 time, relating to public transportation facilities; [and] (c) article  
17 four of the noise control code of the city of New York, as it may be  
18 amended from time to time, insofar as it pertains to sound reproduction  
19 devices; [and] (d) the rules and regulations which may from time to time  
20 be established by the triborough bridge and tunnel authority in accord-

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

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1   ance with the provisions of section [two thousand nine] TWENTY-NINE  
2   hundred eighty-five of this chapter, AND (E) RULES AND REGULATIONS WHICH  
3   MAY FROM TIME TO TIME BE ESTABLISHED BY THE METROPOLITAN TRANSPORTATION  
4   AUTHORITY OR A SUBSIDIARY THEREOF IN ACCORDANCE WITH THE PROVISIONS OF  
5   SECTION TWELVE HUNDRED SIXTY-SIX OF THIS CHAPTER. Matters within the  
6   jurisdiction of the bureau except violations of the rules and regu-  
7   lations of the triborough bridge and tunnel authority shall be known for  
8   purposes of this section as transit infractions. Nothing herein shall be  
9   construed to divest jurisdiction from any court now having jurisdiction  
10   over any criminal charge or traffic infraction relating to any act  
11   committed in a transit or toll facility, or to impair the ability of a  
12   police officer to conduct a lawful search of a person in a transit  
13   facility. The criminal court of the city of New York shall continue to  
14   have jurisdiction over any criminal charge or traffic infraction brought  
15   for violation of the rules of the authority [or], the triborough bridge  
16   and tunnel authority OR THE METROPOLITAN TRANSPORTATION AUTHORITY OR A  
17   SUBSIDIARY THEREOF, as well as jurisdiction relating to any act which  
18   may constitute a crime or an offense under any law of the state of New  
19   York or any municipality or political subdivision thereof and which may  
20   also constitute a violation of such rules. The bureau shall have concur-  
21   rent jurisdiction with the environmental control board and the adminis-  
22   trative tribunal of the department of health over the aforesaid  
23   provisions of the health code and noise control code of the city of New  
24   York.

25   S 2. Paragraphs b and i of subdivision 4 of section 1209-a of the  
26   public authorities law, as amended by chapter 379 of the laws of 1992,  
27   is amended to read as follows:

28   b. To impose civil penalties not to exceed a total of one hundred  
29   fifty dollars for any transit infraction within its jurisdiction, in  
30   accordance with a penalty schedule established by the authority OR THE  
31   METROPOLITAN TRANSPORTATION AUTHORITY OR A SUBSIDIARY THEREOF, AS APPLI-  
32   CABLE, except that penalties for violations of the health code of the  
33   city of New York shall be in accordance with the penalties established  
34   for such violations by the board of health of the city of New York, and  
35   penalties for violations of the noise code of the city of New York shall  
36   be in accordance with the penalties established for such violations by  
37   law, and civil penalties for violations of the rules and regulations of  
38   the triborough bridge and tunnel authority shall be in accordance with  
39   the penalties established for such violations by section [two thousand  
40   nine] TWENTY-NINE hundred eighty-five of this chapter;

41   i. To accept payment of penalties and to remit same to the authority  
42   OR THE METROPOLITAN TRANSPORTATION AUTHORITY OR A SUBSIDIARY THEREOF, AS  
43   APPLICABLE; and

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

47   a. (1) A person charged with a transit infraction returnable to the  
48   bureau or a person alleged to be liable in accordance with the  
49   provisions of section [two thousand nine] TWENTY-NINE hundred eighty-  
50   five of this chapter who contests such allegation shall be advised of  
51   the date on or by which he or she must appear to answer the charge at a  
52   hearing. Notification of such hearing date shall be given either in the  
53   notice of violation or in a form, the content of which shall be  
54   prescribed by the executive director or in a manner prescribed in  
55   section [two thousand nine] TWENTY-NINE hundred eighty-five of this  
56   chapter. Any such notification shall contain a warning to advise the

1 person charged that failure to appear on or by the date designated, or  
2 any subsequent rescheduled or adjourned date, shall be deemed for all  
3 purposes, an admission of liability, and that a default judgment may be  
4 rendered and penalties may be imposed. Where notification is given in a  
5 manner other than in the notice of violation, the bureau shall deliver  
6 such notice to the person charged, either personally or by [registered  
7 or certified] FIRST CLASS mail.

8 (2) Whenever a person charged with a transit infraction or alleged to  
9 be liable in accordance with the provisions of section [two thousand  
10 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the  
11 bureau requests an alternate hearing date and is not then in default as  
12 defined in subdivision six of this section, the bureau shall advise such  
13 person personally, or by [registered or certified] FIRST CLASS mail, of  
14 the alternate hearing date on or by which he or she must appear to  
15 answer the charge or allegation at a hearing. The form and content of  
16 such notice of hearing shall be prescribed by the executive director,  
17 and shall contain a warning to advise the person charged or alleged to  
18 be liable that failure to appear on or by the alternate designated hear-  
19 ing date, or any subsequent rescheduled or adjourned date, shall be  
20 deemed for all purposes an admission of liability, and that a default  
21 judgment may be rendered and penalties may be imposed.

22 (3) Whenever a person charged with a transit infraction or alleged to  
23 be liable in accordance with the provisions of section [two thousand  
24 nine] TWENTY-NINE hundred eighty-five of this chapter returnable to the  
25 bureau appears at a hearing and obtains an adjournment of the hearing  
26 pursuant to the rules of the bureau, the bureau shall advise such person  
27 personally, or by [registered or certified] FIRST CLASS mail, of the  
28 adjourned date on which he or she must appear to answer the charge or  
29 allegation at a continued hearing. The form and content of such notice  
30 of a continued hearing shall be prescribed by the executive director,  
31 and shall contain a warning to advise the person charged or alleged to  
32 be liable that failure to appear on the adjourned hearing date shall be  
33 deemed for all purposes an admission of liability, and that a default  
34 judgment may be rendered and penalties may be imposed.

35 g. After due consideration of the evidence and arguments, the hearing  
36 officer shall determine whether the charges or allegations have been  
37 established. No charge may be established except upon proof by clear and  
38 convincing evidence except allegations of civil liability for violations  
39 of triborough bridge and tunnel authority rules and regulations will be  
40 established in accordance with the provisions of section [two thousand  
41 nine] TWENTY-NINE hundred eighty-five of this chapter. Where the charges  
42 have not been established, an order dismissing the charges or allega-  
43 tions shall be entered. Where a determination is made that a charge or  
44 allegation has been established or if an answer admitting the charge or  
45 allegation has been received, the hearing officer shall set a penalty in  
46 accordance with the penalty schedule established by the authority, or  
47 for allegations of civil liability in accordance with the provisions of  
48 section [two thousand nine] TWENTY-NINE hundred eighty-five of this  
49 chapter and an appropriate order shall be entered in the records of the  
50 bureau. The respondent shall be given notice of such entry in person or  
51 by [certified] FIRST CLASS mail. This order shall constitute the final  
52 determination of the hearing officer, and for purposes of review it  
53 shall be deemed to incorporate any intermediate determinations made by  
54 said officer in the course of the proceeding. When no appeal is filed  
55 this order shall be the final order of the bureau.

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

4 d. Appeals shall be made without the appearance of the appellant and  
5 appellant's attorney unless the presence of either or both are requested  
6 by the appellant, appellant's attorney, appellant's parent or guardian  
7 if appellant is a minor, or the appeals board. Within twenty days after  
8 a request for an appearance, made by or for the appellant, appellant's  
9 attorney or the board, the bureau shall advise the appellant, either  
10 personally or by [registered or certified] FIRST CLASS mail, of the date  
11 on which he or she shall appear. The appellant shall be notified in  
12 writing of the decision of the appeals board.

13 S 5. Subdivision 4 of section 1266 of the public authorities law, as  
14 amended by chapter 415 of the laws of 1966, is amended to read as  
15 follows:

16 4. The authority may establish and, in the case of joint service  
17 arrangements, join with others in the establishment of such schedules  
18 and standards of operations and such other rules and regulations includ-  
19 ing but not limited to rules and regulations governing the conduct and  
20 safety of the public as it may deem necessary, convenient or desirable  
21 for the use and operation of any transportation facility and related  
22 services operated by the authority or under contract, lease or other  
23 arrangement, including joint service arrangements, with the authority.  
24 Such rules and regulations governing the conduct and safety of the  
25 public shall be filed with the department of state in the manner  
26 provided by section one hundred two of the executive law. In the case of  
27 any conflict between any such rule or regulation of the authority  
28 governing the conduct or the safety of the public and any local law,  
29 ordinance, rule or regulation, such rule or regulation of the authority  
30 shall prevail. Violation of any such rule or regulation of the authority  
31 governing the conduct or the safety of the public in or upon any facili-  
32 ty of the authority shall constitute an offense and shall be punishable  
33 by a fine not exceeding fifty dollars or imprisonment for not more than  
34 thirty days or both OR MAY BE PUNISHABLE BY THE IMPOSITION OF A CIVIL  
35 PENALTY BY THE TRANSIT ADJUDICATION BUREAU ESTABLISHED PURSUANT TO THE  
36 PROVISIONS OF TITLE NINE OF THIS ARTICLE.

37 S 6. This act shall take effect immediately.