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

3455--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 22, 2015

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to certain penalties and forfeited security collected by the city of Buffalo and granting a traffic violations agency certain powers; to amend the general municipal law, in relation to establishing the Buffalo traffic violations agency; to amend the state finance law, in relation to the justice court fund; to amend the criminal procedure law, in relation to a trial by judicial hearing officer; to require the executive director of the Buffalo traffic violations agency to annually issue a report on the progress, development and operations of such agency; and to amend the vehicle and traffic law, in relation to traffic infractions in certain cities

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

Section 1. Subdivision 5 of section 227 of the vehicle and traffic law, as amended by chapter 690 of the laws of 1996, is amended to read as follows:

5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the

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

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state. The amount distributed during the first three quarters to the [cities] CITY of Rochester [and Buffalo] in any given fiscal year shall not exceed seventy percent of the amount which will be otherwise payable. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article.

S 2. Section 370 of the general municipal law is amended by adding a new subdivision 4 to read as follows:

4. THERE SHALL BE AN EXECUTIVE DEPARTMENT OF THE BUFFALO CITY GOVERNMENT KNOWN AS THE BUFFALO TRAFFIC VIOLATIONS AGENCY, WHICH SHALL OPERATE UNDER THE DIRECTION AND CONTROL OF THE MAYOR.

S 3. Subdivision 2 of section 370-a of the general municipal law, as amended by chapter 388 of the laws of 2012, is amended and a new subdivision 1-a is added to read as follows:

1-A. "TRAFFIC VIOLATIONS AGENCY" SHALL MEAN AN EXECUTIVE DEPARTMENT OF THE CITY OF BUFFALO ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE TO ADMINISTER AND DISPOSE OF TRAFFIC INFRACTIONS AS AUTHORIZED PURSUANT TO THIS ARTICLE.

2. "Traffic prosecutor" shall mean an attorney duly admitted to practice law in the state of New York who, having been appointed and either hired or retained pursuant to section three hundred seventy-four of this article, has the responsibility of prosecuting any traffic and parking infractions returnable before the Nassau county district court or the Suffolk county district court OR ANY TRAFFIC INFRACTIONS RETURNABLE BEFORE THE BUFFALO CITY COURT pursuant to the jurisdictional limitations of section three hundred seventy-one of this article.

S 4. Section 371 of the general municipal law is amended by adding a new subdivision 2-a to read as follows:

2-A. THE BUFFALO TRAFFIC VIOLATIONS AGENCY, AS ESTABLISHED IN SUBDIVISION FOUR OF SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE, MAY BE AUTHORIZED TO ASSIST THE BUFFALO CITY COURT IN THE DISPOSITION AND ADMINISTRATION OF INFRACTIONS OF TRAFFIC LAWS, ORDINANCES, RULES AND REGULATIONS EXCEPT THAT SUCH AGENCY SHALL NOT HAVE JURISDICTION OVER (A) THE TRAFFIC INFRACTION DEFINED UNDER SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW; (B) THE TRAFFIC INFRACTION DEFINED UNDER SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW; (C) THE VIOLATION DEFINED UNDER PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOURTEEN-F OF THE TRANSPORTATION LAW AND THE VIOLATION DEFINED UNDER CLAUSE (B) OF SUBPARAGRAPH (III) OF PARAGRAPH C OF SUBDIVISION TWO OF SECTION ONE HUNDRED FORTY OF THE TRANSPORTATION LAW; (D) THE TRAFFIC INFRACTION DEFINED UNDER SECTION THREE HUNDRED NINETY-SEVEN-A OF THE VEHICLE AND TRAFFIC LAW AND THE TRAFFIC INFRACTION DEFINED UNDER SUBDIVISION (G) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW; (E) TRAFFIC INFRACTIONS CONSTITUTING PARKING, STANDING, STOPPING OR PEDESTRIAN OFFENSES; (F) ANY MISDEMEANOR OR FELONY; OR (G) ANY OFFENSE THAT IS PART OF THE SAME CRIMINAL TRANSACTION, AS THAT TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 40.10 OF THE CRIMINAL PROCEDURE LAW, AS A VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, A VIOLATION OF SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOURTEEN-F OF THE TRANSPORTATION LAW, A VIOLATION OF CLAUSE (B) OF SUBPARAGRAPH (III) OF PARAGRAPH C OF SUBDIVI-

SION TWO OF SECTION ONE HUNDRED FORTY OF THE TRANSPORTATION LAW, A VIOLATION OF SECTION THREE HUNDRED NINETY-SEVEN-A OF THE VEHICLE AND TRAFFIC LAW, A VIOLATION CONSTITUTING A PARKING, STOPPING, STANDING OR PEDESTRIAN OFFENSE, A VIOLATION OF SUBDIVISION (G) OF SECTION ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW OR ANY MISDEMEANOR OR FELONY.

S 5. Section 371 of the general municipal law is amended by adding a new subdivision 3-a to read as follows:

3-A. A PERSON CHARGED WITH AN INFRACTION WHICH SHALL BE DISPOSED OF BY THE BUFFALO TRAFFIC VIOLATIONS AGENCY MAY BE PERMITTED TO ANSWER, WITHIN A SPECIFIED TIME, AT THE TRAFFIC VIOLATIONS AGENCY EITHER IN PERSON OR BY WRITTEN POWER OF ATTORNEY IN SUCH FORM AS MAY BE PRESCRIBED IN THE ORDINANCE OR LOCAL LAW CREATING THE AGENCY, BY PAYING A PRESCRIBED FINE AND, IN WRITING, WAIVING A HEARING IN COURT, PLEADING GUILTY TO THE CHARGE OR A LESSER CHARGE AGREEABLE TO THE TRAFFIC PROSECUTOR AND THE PERSON CHARGED WITH AN INFRACTION, AND AUTHORIZING THE PERSON IN CHARGE OF THE AGENCY TO ENTER SUCH A PLEA AND ACCEPT PAYMENT OF SAID FINE. ACCEPTANCE OF THE PRESCRIBED FINE AND POWER OF ATTORNEY BY THE AGENCY SHALL BE DEEMED COMPLETE SATISFACTION FOR THE VIOLATION, AND THE VIOLATOR SHALL BE GIVEN A RECEIPT WHICH SO STATES. IF A PERSON CHARGED WITH A TRAFFIC VIOLATION DOES NOT ANSWER AS HEREINBEFORE PRESCRIBED, WITHIN A DESIGNATED TIME, THE AGENCY MAY CAUSE A COMPLAINT TO BE ENTERED AGAINST HIM FORTHWITH AND A WARRANT TO BE ISSUED FOR HIS ARREST AND APPEARANCE BEFORE THE COURT, SUCH SUMMONS TO BE PREDICATED UPON THE PERSONAL SERVICE OF SAID SUMMONS UPON THE PERSON CHARGED WITH THE INFRACTION. ANY PERSON WHO SHALL HAVE BEEN, WITHIN THE PRECEDING TWELVE MONTHS, GUILTY OF THREE OR MORE VIOLATIONS, SHALL NOT BE PERMITTED TO APPEAR AND ANSWER TO A SUBSEQUENT VIOLATION AT THE AGENCY, BUT MUST APPEAR IN COURT AT A TIME SPECIFIED BY THE AGENCY. SUCH AGENCY SHALL NOT BE AUTHORIZED TO DEPRIVE A PERSON OF HIS RIGHT TO COUNSEL OR TO PREVENT HIM FROM EXERCISING HIS RIGHT TO APPEAR IN COURT TO ANSWER TO, EXPLAIN, OR DEFEND ANY CHARGE OF A VIOLATION OF ANY TRAFFIC LAW, ORDINANCE, RULE OR REGULATION.

S 6. Section 371 of the general municipal law is amended by adding a new subdivision 4-a to read as follows:

4-A. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, FINES, PENALTIES AND FORFEITURES COLLECTED BY THE BUFFALO TRAFFIC VIOLATIONS AGENCY SHALL BE DISTRIBUTED AS PROVIDED IN SECTION EIGHTEEN HUNDRED THREE OF THE VEHICLE AND TRAFFIC LAW. ALL FINES, PENALTIES AND FORFEITURES FOR VIOLATIONS ADJUDICATED BY THE BUFFALO TRAFFIC VIOLATIONS AGENCY PURSUANT TO SUBDIVISION TWO-A OF THIS SECTION EXCEPT AS PROVIDED IN SUBDIVISION THREE OF SECTION NINETY-NINE-A OF THE STATE FINANCE LAW, SHALL BE PAID BY SUCH AGENCY TO THE STATE COMPTROLLER WITHIN THE FIRST TEN DAYS OF THE MONTH FOLLOWING COLLECTION. EACH SUCH PAYMENT SHALL BE ACCOMPANIED BY A TRUE AND COMPLETE REPORT IN SUCH FORM AND DETAIL AS THE COMPTROLLER SHALL PRESCRIBE.

S 7. The general municipal law is amended by adding a new section 374-a to read as follows:

S 374-A. TRAFFIC PROSECUTOR SELECTION AND OVERSIGHT. (A) THE EXECUTIVE DIRECTOR OF THE BUFFALO TRAFFIC VIOLATIONS AGENCY, APPOINTED PURSUANT TO SUBDIVISION (B) OF THIS SECTION, SHALL SELECT AND MAY CONTRACT WITH OR HIRE ONE OR MORE PERSONS WHO ARE ATTORNEYS, DULY ADMITTED TO THE PRACTICE OF LAW IN NEW YORK STATE FOR THE PROSECUTION OF ANY TRAFFIC INFRACTION, EXCEPT THOSE DESCRIBED IN PARAGRAPHS (A), (B), (C), (D), (E), (F) AND (G) OF SUBDIVISION TWO-A OF SECTION THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE, TO BE HEARD, TRIED OR OTHERWISE DISPOSED OF BY THE BUFFALO CITY COURT. SUCH PERSONS SHALL BE KNOWN AS "TRAFFIC PROSECUTORS", AS

THAT TERM IS DEFINED IN SECTION THREE HUNDRED SEVENTY-A OF THIS ARTICLE. TRAFFIC PROSECUTORS SHALL HAVE THE SAME POWER AS A DISTRICT ATTORNEY WOULD OTHERWISE HAVE IN THE PROSECUTION OF ANY TRAFFIC INFRACTION WHICH MAY, PURSUANT TO THE JURISDICTIONAL PROVISIONS OF SECTION THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE, BE PROSECUTED BEFORE THE BUFFALO CITY COURT IF THE TRAFFIC VIOLATION OCCURRED IN THE CITY OF BUFFALO. THE EXECUTIVE DIRECTOR SHALL GIVE ACTIVE CONSIDERATION TO REQUIRING THAT SUCH TRAFFIC PROSECUTORS SERVE ON A FULL-TIME BASIS. TRAFFIC PROSECUTORS ARE PROHIBITED FROM APPEARING IN ANY CAPACITY OTHER THAN AS A TRAFFIC PROSECUTOR IN ANY PART OF THE BUFFALO CITY COURT ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS AND ARE FURTHER PROHIBITED FROM APPEARING IN ANY CAPACITY OTHER THAN AS A TRAFFIC PROSECUTOR IN ANY OTHER COURT OR ADMINISTRATIVE TRIBUNAL ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS.

(B) THE MAYOR OF THE CITY OF BUFFALO SHALL APPOINT A PERSON TO SERVE AS THE EXECUTIVE DIRECTOR OF THE BUFFALO TRAFFIC VIOLATIONS AGENCY SUBJECT TO THE CONFIRMATION OF THE COMMON COUNCIL OF THE CITY OF BUFFALO. THE EXECUTIVE DIRECTOR SHALL BE RESPONSIBLE FOR THE OVERSIGHT AND ADMINISTRATION OF THE AGENCY. THE EXECUTIVE DIRECTOR IS PROHIBITED FROM APPEARING IN ANY CAPACITY IN ANY PART OF THE BUFFALO CITY COURT ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS AND IS FURTHER PROHIBITED FROM APPEARING IN ANY CAPACITY IN ANY OTHER COURT OR ADMINISTRATIVE TRIBUNAL ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS.

(C) IT SHALL BE A MISDEMEANOR FOR THE EXECUTIVE DIRECTOR, ANY TRAFFIC PROSECUTOR OR ANY JUDICIAL HEARING OFFICER ASSIGNED TO HEAR TRAFFIC VIOLATIONS CASES PURSUANT TO SECTION SIXTEEN HUNDRED NINETY OF THE VEHICLE AND TRAFFIC LAW TO ESTABLISH ANY QUOTA OF TRAFFIC VIOLATION CONVICTIONS WHICH MUST BE OBTAINED BY ANY TRAFFIC PROSECUTOR OR JUDICIAL HEARING OFFICER. NOTHING CONTAINED HEREIN SHALL PROHIBIT THE TAKING OF ANY JOB ACTION AGAINST A TRAFFIC PROSECUTOR OR JUDICIAL HEARING OFFICER FOR FAILURE TO SATISFACTORILY PERFORM SUCH PROSECUTOR'S OR OFFICER'S JOB ASSIGNMENT EXCEPT THAT THE EMPLOYMENT PRODUCTIVITY OF SUCH PROSECUTOR OR OFFICER SHALL NOT BE MEASURED BY THE ATTAINMENT OR NONATTAINMENT OF ANY CONVICTION QUOTA. FOR THE PURPOSES OF THIS SECTION A CONVICTION QUOTA SHALL MEAN A SPECIFIC NUMBER OF CONVICTIONS WHICH MUST BE OBTAINED WITHIN A SPECIFIC TIME PERIOD.

(D) PURSUANT TO ARTICLE 20 OF THE BUFFALO CITY CHARTER, THE CITY OF BUFFALO MAY APPROPRIATE THOSE MONIES WHICH, IN ITS SOLE DISCRETION, ARE NECESSARY FOR THE COMPENSATION OF THOSE PERSONS SELECTED TO SERVE AS EXECUTIVE DIRECTOR AND TRAFFIC PROSECUTORS AND TO COVER ALL OTHER EXPENSES ASSOCIATED WITH THE ADMINISTRATION OF THE BUFFALO TRAFFIC VIOLATIONS AGENCY.

S 8. Subdivision 3 of section 99-a of the state finance law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

3. The comptroller is hereby authorized to implement alternative procedures, including guidelines in conjunction therewith, relating to the remittance of fines, penalties, forfeitures and other moneys by town and village justice courts, and by the Nassau and Suffolk counties traffic and parking violations agencies, AND BY THE CITY OF BUFFALO TRAFFIC VIOLATIONS AGENCY, to the justice court fund and for the distribution of such moneys by the justice court fund. Notwithstanding any law to the contrary, the alternative procedures utilized may include:

a. electronic funds transfer;

b. remittance of funds by the justice court to the chief fiscal office of the town or village, or, in the case of the Nassau and Suffolk counties traffic and parking violations agencies, to the county treasurer,

OR, IN THE CASE OF THE BUFFALO TRAFFIC VIOLATIONS AGENCY, TO THE CITY OF BUFFALO COMPTROLLER, for distribution in accordance with instructions by the comptroller; and/or

c. monthly, rather than quarterly, distribution of funds.

The comptroller may require such reporting and record keeping as he or she deems necessary to ensure the proper distribution of moneys in accordance with applicable laws. A justice court or the Nassau and Suffolk counties traffic and parking violations agencies OR THE CITY OF BUFFALO TRAFFIC VIOLATIONS AGENCY may utilize these procedures only when permitted by the comptroller, and such permission, once given, may subsequently be withdrawn by the comptroller on due notice.

S 9. Paragraph (c) of subdivision 4-a of section 510 of the vehicle and traffic law, as added by section 10 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

(c) Upon receipt of notification from a traffic and parking violations agency OR A TRAFFIC VIOLATIONS AGENCY of the failure of a person to appear within sixty days of the return date or new subsequent adjourned date, pursuant to an appearance ticket charging said person with a violation of:

(i) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two AND IN PARAGRAPHS (A), (B), (D), (E), (F) AND (G) OF SUBDIVISION TWO-A of section three hundred seventy-one of the general municipal law;

(ii) section five hundred two or subdivision (a) of section eighteen hundred fifteen of the tax law;

(iii) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or

(iv) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing) or the failure to pay a fine imposed for such a violation by a traffic and parking violations agency OR A TRAFFIC VIOLATIONS AGENCY, the commissioner or his or her agent may suspend the driver's license or privileges of such person pending receipt of notice from the agency that such person has appeared in response to such appearance ticket or has paid such fine. Such suspension shall take effect no less than thirty days from the day upon which notice thereof is sent by the commissioner to the person whose driver's license or privileges are to be suspended. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

S 10. Paragraph (b) of subdivision 3 of section 514 of the vehicle and traffic law, as amended by section 11 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

(b) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a traffic and parking violations agency OR A TRAFFIC VIOLATIONS AGENCY pursuant to a summons charging him or her with a violation of:

(1) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two AND IN PARAGRAPHS (A), (B), (D), (E), (F) AND (G) OF SUBDIVISION TWO-A of section three hundred seventy-one of the general municipal law;

(2) section five hundred two or subdivision (a) of section eighteen hundred fifteen of the tax law;

(3) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or

(4) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing);

the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the agency, the traffic and parking violations agency, THE TRAFFIC VIOLATIONS AGENCY or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner; provided, however, no such certification shall be made unless the traffic and parking violations agency OR THE TRAFFIC VIOLATIONS AGENCY has collected the termination of suspension fee required to be paid pursuant to paragraph (j-1) of subdivision two of section five hundred three of this chapter.

S 11. The article heading of article 44-A of the vehicle and traffic law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

AUTHORITY OF THE NASSAU AND SUFFOLK
COUNTY DISTRICT COURT AND BUFFALO CITY COURT
JUDICIAL HEARING OFFICERS

S 12. The section heading of section 1690 of the vehicle and traffic law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

Authority of the Nassau county and Suffolk county district court judicial hearing officers AND THE CITY OF BUFFALO JUDICIAL HEARING OFFICERS.

S 13. Section 1690 of the vehicle and traffic law is amended by adding two new subdivisions 1-a and 4-a to read as follows:

1-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE THE TRIAL OF A TRAFFIC INFRACTION IS AUTHORIZED OR REQUIRED TO BE TRIED BEFORE THE BUFFALO CITY COURT, AND SUCH TRAFFIC INFRACTION DOES NOT CONSTITUTE A MISDEMEANOR, FELONY, VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO, SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED NINETY-TWO, SECTION THREE HUNDRED NINETY-SEVEN-A, OR SUBDIVISION (G) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, OR A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOURTEEN-F OR CLAUSE (B) OF SUBPARAGRAPH (III) OF PARAGRAPH C OF SUBDIVISION TWO OF SECTION ONE HUNDRED FORTY OF THE TRANSPORTATION LAW, OR ANY PARKING, STOPPING, STANDING OR PEDESTRIAN OFFENSE, OR ANY OFFENSE THAT IS PART OF THE SAME CRIMINAL TRANSACTION, AS THAT TERM IS DEFINED IN SUBDIVISION TWO OF SECTION 40.10 OF THE CRIMINAL PROCEDURE LAW, AS SUCH A MISDEMEANOR, FELONY, VIOLATION OF SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO, SUBDIVISION TWO OF SECTION ELEVEN HUNDRED NINETY-TWO, SECTION THREE HUNDRED NINETY-SEVEN-A OR SUBDIVISION (G) OF SECTION ELEVEN HUNDRED EIGHTY OF THIS CHAPTER, OR A VIOLATION OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOURTEEN-F OR CLAUSE (B) OF SUBPARAGRAPH (III) OF PARAGRAPH D OF SUBDIVISION TWO OF SECTION ONE HUNDRED FORTY OF THE TRANSPORTATION LAW, OR ANY PARKING, STOPPING, STANDING OR PEDESTRIAN OFFENSE, THE ADMINISTRATIVE JUDGE OF THE EIGHTH JUDICIAL DISTRICT MAY ASSIGN JUDICIAL HEARING OFFICERS TO CONDUCT SUCH A TRIAL. SUCH JUDICIAL HEARING OFFICERS SHALL: (I) BE RESIDENTS OF THE CITY OF BUFFALO; AND

(II) BE VILLAGE OR TOWN COURT JUSTICES, CITY COURT JUDGES OR RETIRED JUDGES OR JUSTICES ALL OF WHICH SHALL HAVE AT LEAST TWO YEARS OF EXPERIENCE CONDUCTING TRIALS OF TRAFFIC VIOLATIONS CASES; AND (III) BE ADMITTED TO PRACTICE LAW IN THIS STATE; AND (IV) BE SELECTED FROM A LIST OF RECOMMENDATIONS OF THE MAYOR OF THE CITY OF BUFFALO PROVIDED THAT THE MAYOR SHALL GIVE AT LEAST THREE RECOMMENDATIONS FOR EACH JUDICIAL HEARING OFFICER ASSIGNMENT. WHERE SUCH ASSIGNMENT IS MADE, THE JUDICIAL HEARING OFFICER SHALL ENTERTAIN THE CASE IN THE SAME MANNER AS A COURT AND SHALL:

(A) DETERMINE ALL QUESTIONS OF LAW;

(B) ACT AS THE EXCLUSIVE TRIER OF ALL ISSUES OF FACT;

(C) RENDER A VERDICT;

(D) IMPOSE SENTENCE; OR

(E) DISPOSE OF THE CASE IN ANY MANNER PROVIDED BY LAW.

4-A. JUDICIAL HEARING OFFICERS ARE PROHIBITED FROM APPEARING IN ANY CAPACITY OTHER THAN AS A JUDICIAL HEARING OFFICER IN ANY PART OF BUFFALO CITY COURT ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS AND ARE FURTHER PROHIBITED FROM APPEARING IN ANY CAPACITY OTHER THAN AS A JUDICIAL HEARING OFFICER IN ANY OTHER COURT OR ADMINISTRATIVE TRIBUNAL ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS.

S 14. Subdivision 5 of section 350.20 of the criminal procedure law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

5. Notwithstanding the provisions of subdivision one of this section, for all proceedings before the district court of Nassau county the administrative judge of Nassau county may, and for all proceedings before the district court of Suffolk county, the administrative judge of Suffolk county may, without the consent of the parties, assign matters involving traffic and parking infractions except those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law AND FOR ALL PROCEEDINGS BEFORE THE BUFFALO CITY COURT THE ADMINISTRATIVE JUDGE OF THE EIGHTH JUDICIAL DISTRICT MAY, WITHOUT THE CONSENT OF THE PARTIES, ASSIGN MATTERS INVOLVING TRAFFIC INFRACTIONS EXCEPT THOSE DESCRIBED IN PARAGRAPHS (A), (B), (C), (D), (E), (F) AND (G) OF SUBDIVISION TWO-A OF SECTION THREE HUNDRED SEVENTY-ONE OF THE GENERAL MUNICIPAL LAW TO A JUDICIAL HEARING OFFICER IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIXTEEN HUNDRED NINETY OF THE VEHICLE AND TRAFFIC LAW.

S 15. The executive director of the Buffalo traffic violations agency shall issue on an annual basis, beginning eighteen months following the creation of the Buffalo traffic violations agency pursuant to city of Buffalo local law, a report detailing the progress, development and operations of the traffic violations agency. The report shall be provided to the governor, the temporary president of the senate, the speaker of the assembly, the mayor of Buffalo, the common council of Buffalo, the presiding judge of the Buffalo city court and the Erie county district attorney.

S 16. Section 155 of the vehicle and traffic law, as amended by chapter 628 of the laws of 2002, is amended to read as follows:

S 155. Traffic infraction. The violation of any provision of this chapter, except articles forty-seven and forty-eight, or of any law, ordinance, order, rule or regulation regulating traffic which is not declared by this chapter or other law of this state to be a misdemeanor or a felony. A traffic infraction is not a crime and the punishment

imposed therefor shall not be deemed for any purpose a penal or criminal punishment and shall not affect or impair the credibility as a witness or otherwise of any person convicted thereof. This definition shall be retroactive and shall apply to all acts and violations heretofore committed where such acts and violations would, if committed subsequent to the taking effect of this section, be included within the meaning of the term "traffic infraction" as herein defined. Except in those portions of Suffolk county for which a district court has been established, outside of cities having a population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administrative tribunals have heretofore been established AND OUTSIDE OF CITIES HAVING A POPULATION OF ONE MILLION IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, courts and judicial officers heretofore having jurisdiction over such violations shall continue to do so and for such purpose such violations shall be deemed misdemeanors and all provisions of law relating to misdemeanors except as provided in section eighteen hundred five of this chapter and except as herein otherwise expressly provided shall apply except that no jury trial shall be allowed for traffic infractions. In those portions of Suffolk county for which a district court has been established, and in cities having a population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administrative tribunals have heretofore been established AND IN CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, the criminal courts of such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any complaint alleging a violation constituting a traffic infraction, except that administrative tribunals heretofore established in such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any charge of an offense which is a traffic infraction, except parking, standing or stopping. In cities having a population in excess of two hundred thousand in which administrative tribunals have heretofore been established, and any such administrative tribunal established by the city of Yonkers, the city of Peekskill, or the city of Syracuse, such tribunals shall have jurisdiction to hear and determine any charge of an offense which is a parking, standing or stopping violation. Any fine imposed by an administrative tribunal shall be a civil penalty. For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.

S 17. Subdivision 1 of section 225 of the vehicle and traffic law, as amended by chapter 388 of the laws of 2012, is amended to read as follows:

1. Notwithstanding any inconsistent provision of law, all violations of this chapter or of a law, ordinance, order, rule or regulation relating to traffic, except parking, standing, stopping or pedestrian offenses, which occur within a city having a population of two hundred thousand or more BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administrative tribunals have heretofore been established, OR WITHIN A CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, and which are classified as traffic infractions, may be heard and determined pursuant to the regulations of the commissioner as provided in this article. Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable

before the court having jurisdiction over the crime. Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic infraction, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for any offense classified as a traffic infraction.

S 18. Pending actions and proceedings. (a) No proceeding involving a charge of a traffic infraction pending at such time when an existing administrative tribunal shall cease to exist shall be affected or abated by the passage of this act or by anything herein contained or by the cessation of the existence of any administrative tribunal. All such proceedings are hereby transferred to the court of appropriate jurisdiction in the city where such traffic infractions allegedly occurred.

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

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

S 19. This act shall take effect immediately; provided, however, that the provisions of sections two, three, seven, and eleven through fourteen of this act shall take effect on the same date as the city of Buffalo shall have established a traffic violations agency, by enactment of a local law hereby authorized; provided, further, that if established, such agency and the city of Buffalo shall comply with all the provisions of law set forth in this act; provided, further, that the amendments to section 371 of the general municipal law made by sections four, five and six of this act shall not affect the expiration of such section and shall be deemed to expire therewith; provided, further, that the city of Buffalo shall notify the legislative bill drafting commission upon the occurrence of the enactment of the local law provided for in this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law; and provided, further, that sections one, four through six, eight through ten, and fifteen through eighteen of this act shall take effect forty-five days after the city of Buffalo shall have established a traffic violations agency by enactment of a local law pursuant to this section.