

5854

2015-2016 Regular Sessions

I N A S S E M B L Y

March 5, 2015

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 separately amended by section 4 of chapter 99,
3 section 4 of chapter 101, and section 4 of chapter 123 of the laws of
4 2014, is amended to read as follows:

5 f. "Notice of violation" means a notice of violation as defined in
6 subdivision nine of section two hundred thirty-seven of this article,
7 but shall not be deemed to include a notice of liability issued pursuant
8 to authorization set forth in section eleven hundred eleven-a of this
9 chapter, or sections eleven hundred eleven-b of this chapter as added by
10 sections sixteen of chapters twenty, twenty-one, and twenty-two of the
11 laws of two thousand nine, or section eleven hundred eleven-d of this
12 chapter, and shall not be deemed to include a notice of liability issued
13 pursuant to section two thousand nine hundred eighty-five of the public
14 authorities law and sections sixteen-a, sixteen-b and sixteen-c of chap-
15 ter seven hundred seventy-four of the laws of nineteen hundred fifty and
16 shall not be deemed to include a notice of liability issued pursuant to
17 section eleven hundred eleven-c of this chapter and shall not be deemed
18 to include a notice of liability issued pursuant to section eleven
19 hundred eighty-b OR ELEVEN HUNDRED ELEVEN-E of this chapter.

20 S 2. Paragraph f of subdivision 1 of section 239 of the vehicle and
21 traffic law, as separately amended by section 4-a of chapter 99, section
22 4-a of chapter 101, and section 4-a of chapter 123 of the laws of 2014,
23 is amended to read as follows:

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

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1 f. "Notice of violation" means a notice of violation as defined in
2 subdivision nine of section two hundred thirty-seven of this article but
3 shall not be deemed to include a notice of liability issued pursuant to
4 authorization set forth in sections eleven hundred eleven-b of this
5 chapter as added by sections sixteen of chapters twenty, twenty-one, and
6 twenty-two of the laws of two thousand nine or section eleven hundred
7 eleven-d of this chapter and shall not be deemed to include a notice of
8 liability issued pursuant to section eleven hundred eleven-c of this
9 chapter and shall not be deemed to include a notice of liability issued
10 pursuant to section eleven hundred eighty-b OR ELEVEN HUNDRED ELEVEN-E
11 of this chapter.

12 S 3. Paragraph f of subdivision 1 of section 239 of the vehicle and
13 traffic law, as separately amended by section 4-b of chapter 99, section
14 4-b of chapter 101, and section 4-b of chapter 123 of the laws of 2014,
15 is amended to read as follows:

16 f. "Notice of violation" means a notice of violation as defined in
17 subdivision nine of section two hundred thirty-seven of this article and
18 shall not be deemed to include a notice of liability issued pursuant to
19 authorization set forth in section eleven hundred eleven-d of this chap-
20 ter and shall not be deemed to include a notice of liability issued
21 pursuant to section eleven hundred eleven-c of this chapter and shall
22 not be deemed to include a notice of liability issued pursuant to
23 section eleven hundred eighty-b OR ELEVEN HUNDRED ELEVEN-E of this chap-
24 ter.

25 S 4. Paragraph f of subdivision 1 of section 239 of the vehicle and
26 traffic law, as separately amended by section 4-c of chapter 99, section
27 4-c of chapter 101, and section 4-c of chapter 123 of the laws of 2014,
28 is amended to read as follows:

29 f. "Notice of violation" means a notice of violation as defined in
30 subdivision nine of section two hundred thirty-seven of this article and
31 shall not be deemed to include a notice of liability issued pursuant to
32 authorization set forth in section eleven hundred eleven-d of this chap-
33 ter and shall not be deemed to include a notice of liability issued
34 pursuant to section eleven hundred eighty-b OR ELEVEN HUNDRED ELEVEN-E
35 of this chapter.

36 S 5. Paragraph f of subdivision 1 of section 239 of the vehicle and
37 traffic law, as separately amended by section 4-d of chapter 99, section
38 4-d of chapter 101, and section 4-d of chapter 123 of the laws of 2014,
39 is amended to read as follows:

40 f. "Notice of violation" means a notice of violation as defined in
41 subdivision nine of section two hundred thirty-seven of this article and
42 shall not be deemed to include a notice of liability issued pursuant to
43 authorization set forth in section eleven hundred eleven-d OR ELEVEN
44 HUNDRED ELEVEN-E of this chapter.

45 S 6. Paragraph f of subdivision 1 of section 239 of the vehicle and
46 traffic law, as added by chapter 180 of the laws of 1980, is amended to
47 read as follows:

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

52 S 7. Subdivision 4 of section 239 of the vehicle and traffic law, as
53 amended by section 5 of chapter 189 of the laws of 2013, is amended to
54 read as follows:

55 4. Applicability. The provisions of paragraph b of subdivision two and
56 subdivision three of this section shall not be applicable to determi-

1 nations of owner liability for the failure of an operator to comply with
2 subdivision (d) of section eleven hundred eleven of this chapter [and
3 shall not be applicable to determinations of owner liability imposed
4 pursuant to], section two thousand nine hundred eighty-five of the
5 public authorities law [and], sections sixteen-a, sixteen-b and
6 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
7 hundred fifty [and shall not be applicable to determinations of owner
8 liability for the failure of an operator to comply with], subdivision
9 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-
10 ter, OR SECTION ELEVEN HUNDRED ELEVEN-E OF THIS CHAPTER.

11 S 8. Subdivision 4 of section 239 of the vehicle and traffic law, as
12 amended by section 5-a of chapter 189 of the laws of 2013, is amended to
13 read as follows:

14 4. Applicability. The provisions of paragraph b of subdivision two and
15 subdivision three of this section shall not be applicable to determi-
16 nations of owner liability for the failure of an operator to comply with
17 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty
18 of this chapter, OR SECTION ELEVEN HUNDRED ELEVEN-E OF THIS CHAPTER.

19 S 9. Section 239 of the vehicle and traffic law is amended by adding a
20 new subdivision 4 to read as follows:

21 4. APPLICABILITY. THE PROVISIONS OF PARAGRAPH B OF SUBDIVISION TWO AND
22 SUBDIVISION THREE OF THIS SECTION SHALL NOT BE APPLICABLE TO DETERMI-
23 NATIONS OR OWNER LIABILITY FOR THE FAILURE OF AN OPERATOR TO COMPLY WITH
24 SECTION ELEVEN HUNDRED ELEVEN-E OF THIS CHAPTER.

25 S 10. The vehicle and traffic law is amended by adding a new section
26 1111-e to read as follows:

27 S 1111-E. OWNER LIABILITY FOR FAILURE TO COMPLY WITH STREET CLEANING
28 PARKING RULES. (A) 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
29 CITY OF NEW YORK IS HEREBY AUTHORIZED AND EMPOWERED TO ESTABLISH A
30 PROGRAM IMPOSING MONETARY LIABILITY ON THE OWNER OF A VEHICLE FOR FAIL-
31 URE TO COMPLY WITH STREET CLEANING PARKING RULES IN SUCH CITY IN ACCORD-
32 ANCE WITH THE PROVISIONS OF THIS SECTION. THE NEW YORK CITY DEPARTMENT
33 OF SANITATION, FOR PURPOSES OF THE IMPLEMENTATION OF SUCH PROGRAM, SHALL
34 OPERATE STREET CLEANING VEHICLE PHOTO DEVICES ON STREET CLEANING VEHI-
35 CLES ALONG ONE SELECT STREET CLEANING ROUTE IN NO MORE THAN TWENTY-FIVE
36 SANITATION SERVICE DISTRICTS IN SUCH CITY. SUCH STREET CLEANING VEHICLE
37 PHOTO DEVICES SHALL BE ACTIVATED AT LOCATIONS DETERMINED BY SUCH DEPART-
38 MENT.

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

40 (I) TO ENSURE, TO THE EXTENT PRACTICABLE, THAT PHOTOGRAPHS PRODUCED BY
41 SUCH STREET CLEANING VEHICLE PHOTO DEVICES SHALL NOT INCLUDE IMAGES THAT
42 IDENTIFY ANY PERSON OR PERSONS WHO MAY BE OCCUPYING THE VEHICLE, OR THE
43 CONTENTS OF THE VEHICLE. HOWEVER, A NOTICE OF LIABILITY ISSUED PURSUANT
44 TO THIS SECTION SHALL NOT BE DISMISSED SOLELY BECAUSE A PHOTOGRAPH OR
45 PHOTOGRAPHS ALLOW FOR THE IDENTIFICATION OF A PERSON OR PERSONS WHO MAY
46 BE OCCUPYING THE VEHICLE OR THE CONTENTS OF A VEHICLE;

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

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

55 (B) IF THE CITY OF NEW YORK HAS ESTABLISHED A PROGRAM PURSUANT TO
56 SUBDIVISION (A) OF THIS SECTION, THE OWNER OF A VEHICLE SHALL BE LIABLE

1 FOR A PENALTY IMPOSED PURSUANT TO THIS SECTION IF SUCH VEHICLE WAS
2 PARKED IN VIOLATION OF ANY STREET CLEANING PARKING RULE OF SUCH CITY AND
3 SUCH VIOLATION IS EVIDENCED BY INFORMATION OBTAINED FROM A STREET CLEAN-
4 ING VEHICLE PHOTO DEVICE.

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

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

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

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

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

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

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

28 (D) A CERTIFICATE, SWORN TO OR AFFIRMED BY A TECHNICIAN EMPLOYED BY
29 THE CITY IN WHICH THE CHARGED VIOLATION OCCURRED, OR A FACSIMILE THERE-
30 OF, BASED UPON INSPECTION OF PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE
31 OR OTHER RECORDED IMAGES PRODUCED BY A STREET CLEANING VEHICLE PHOTO
32 DEVICE, SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED THEREIN.
33 ANY PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE OR OTHER RECORDED IMAGES
34 EVIDENCING SUCH A VIOLATION SHALL BE AVAILABLE FOR INSPECTION IN ANY
35 PROCEEDING TO ADJUDICATE THE LIABILITY FOR SUCH VIOLATION PURSUANT TO
36 THIS SECTION.

37 (E) AN OWNER LIABLE FOR A VIOLATION OF A STREET CLEANING PARKING RULE
38 IMPOSED ON ANY ROUTE SHALL BE LIABLE FOR MONETARY PENALTIES IN ACCORD-
39 ANCE WITH A SCHEDULE OF FINES AND PENALTIES PROMULGATED BY THE PARKING
40 VIOLATIONS BUREAU OF THE CITY OF NEW YORK; PROVIDED, HOWEVER, THAT THE
41 MONETARY PENALTY FOR VIOLATING A STREET CLEANING PARKING RULE SHALL NOT
42 EXCEED SIXTY-FIVE DOLLARS; PROVIDED, FURTHER, THAT AN OWNER SHALL BE
43 LIABLE FOR AN ADDITIONAL PENALTY NOT TO EXCEED TWENTY-FIVE DOLLARS FOR
44 EACH VIOLATION FOR THE FAILURE TO RESPOND TO A NOTICE OF LIABILITY WITH-
45 IN THE PRESCRIBED TIME PERIOD.

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

52 2. A NOTICE OF LIABILITY SHALL CONTAIN THE NAME AND ADDRESS OF THE
53 PERSON ALLEGED TO BE LIABLE AS AN OWNER FOR VIOLATION OF A STREET CLEAN-
54 ING PARKING RULE, THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN
55 SUCH VIOLATION, THE LOCATION WHERE SUCH VIOLATION TOOK PLACE INCLUDING
56 THE STREET OR CROSS STREETS, ONE OR MORE IMAGES IDENTIFYING THE

1 VIOLATION, THE DATE AND TIME OF SUCH VIOLATION AND THE IDENTIFICATION
2 NUMBER OF THE STREET CLEANING VEHICLE PHOTO DEVICE THAT RECORDED THE
3 VIOLATION OR OTHER DOCUMENT LOCATOR NUMBER.

4 3. THE NOTICE OF LIABILITY SHALL CONTAIN INFORMATION ADVISING THE
5 PERSON CHARGED OF THE MANNER AND THE TIME IN WHICH HE OR SHE MAY CONTEST
6 THE LIABILITY ALLEGED IN THE NOTICE. SUCH NOTICE OF LIABILITY SHALL ALSO
7 CONTAIN A WARNING TO ADVISE THE PERSON CHARGED THAT FAILURE TO CONTEST
8 IN THE MANNER AND TIME PROVIDED SHALL BE DEEMED AN ADMISSION OF LIABIL-
9 ITY AND THAT A DEFAULT JUDGMENT MAY BE ENTERED THEREON.

10 4. THE NOTICE OF LIABILITY SHALL BE PREPARED AND MAILED BY THE AGENCY
11 OR AGENCIES DESIGNATED BY THE CITY OF NEW YORK, OR ANY OTHER ENTITY
12 AUTHORIZED BY SUCH CITY TO PREPARE AND MAIL SUCH NOTIFICATION OF
13 VIOLATION.

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

16 (G) IF AN OWNER OF A VEHICLE RECEIVES A NOTICE OF LIABILITY PURSUANT
17 TO THIS SECTION FOR ANY TIME PERIOD DURING WHICH THE VEHICLE WAS
18 REPORTED TO THE POLICE DEPARTMENT AS HAVING BEEN STOLEN, IT SHALL BE A
19 VALID DEFENSE TO AN ALLEGATION OF LIABILITY FOR VIOLATION OF A STREET
20 CLEANING PARKING RULE OF SUCH CITY, THAT THE VEHICLE HAD BEEN REPORTED
21 TO THE POLICE AS STOLEN PRIOR TO THE TIME THE VIOLATION OCCURRED AND HAD
22 NOT BEEN RECOVERED BY SUCH TIME. FOR PURPOSES OF ASSERTING THE DEFENSE
23 PROVIDED BY THIS SUBDIVISION IT SHALL BE SUFFICIENT THAT A CERTIFIED
24 COPY OF THE POLICE REPORT ON THE STOLEN VEHICLE BE SENT BY FIRST CLASS
25 MAIL TO THE PARKING VIOLATIONS BUREAU.

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

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

33 (II) WITHIN THIRTY-SEVEN DAYS AFTER RECEIVING NOTICE FROM SUCH BUREAU
34 OF THE DATE AND TIME OF SUCH LIABILITY, TOGETHER WITH THE OTHER INFORMA-
35 TION CONTAINED IN THE ORIGINAL NOTICE OF LIABILITY, THE LESSOR SUBMITS
36 TO SUCH BUREAU THE CORRECT NAME AND ADDRESS OF THE LESSEE OF THE VEHICLE
37 IDENTIFIED IN THE NOTICE OF LIABILITY AT THE TIME OF SUCH VIOLATION,
38 TOGETHER WITH SUCH OTHER ADDITIONAL INFORMATION CONTAINED IN THE RENTAL,
39 LEASE OR OTHER CONTRACT DOCUMENT, AS MAY BE REASONABLY REQUIRED BY SUCH
40 BUREAU PURSUANT TO REGULATIONS THAT MAY BE PROMULGATED FOR SUCH PURPOSE.

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

44 3. WHERE THE LESSOR COMPLIES WITH THE PROVISIONS OF PARAGRAPH ONE OF
45 THIS SUBDIVISION, THE LESSEE OF SUCH VEHICLE ON THE DATE OF SUCH
46 VIOLATION SHALL BE DEEMED TO BE THE OWNER OF SUCH VEHICLE FOR PURPOSES
47 OF THIS SECTION, SHALL BE SUBJECT TO LIABILITY FOR SUCH VIOLATION PURSU-
48 ANT TO THIS SECTION, AND SHALL BE SENT A NOTICE OF LIABILITY PURSUANT TO
49 SUBDIVISION (F) OF THIS SECTION.

50 S 11. Subdivision 2 of section 87 of the public officers law is
51 amended by adding a new paragraph (o) to read as follows:

52 (O) ARE PHOTOGRAPHS, MICROPHOTOGRAPHS, DIGITAL TAPE OR OTHER RECORDED
53 IMAGES PRODUCED BY A STREET CLEANING VEHICLE PHOTO DEVICE PREPARED UNDER
54 AUTHORITY OF SECTION ELEVEN HUNDRED ELEVEN-E OF THE VEHICLE AND TRAFFIC
55 LAW.

1 S 12. This act shall take effect on the one hundred eightieth day
2 after it shall have become a law; provided that:

3 (a) the amendments to paragraph f of subdivision 1 of section 239 of
4 the vehicle and traffic law made by section one of this act shall not
5 affect the expiration of such paragraph and shall be deemed to expire
6 therewith, when upon such date the provisions of section two of this act
7 shall take effect, provided, further, that the amendments to paragraph f
8 of subdivision 1 of section 239 of the vehicle and traffic law made by
9 section two of this act shall not affect the expiration of such para-
10 graph and shall be deemed to expire therewith, when upon such date the
11 provisions of section three of this act shall take effect, provided,
12 further, that the amendments to paragraph f of subdivision 1 of section
13 239 of the vehicle and traffic law made by section three of this act
14 shall not affect the expiration of such paragraph and shall be deemed to
15 expire therewith, when upon such date the provisions of section four of
16 this act shall take effect, provided, further, that the amendments to
17 paragraph f of subdivision 1 of section 239 of the vehicle and traffic
18 law made by section four of this act shall not affect the expiration of
19 such paragraph and shall be deemed to expire therewith, when upon such
20 date the provisions of section five of this act shall take effect,
21 provided, further, that the amendments to paragraph f of subdivision 1
22 of section 239 of the vehicle and traffic law made by section five of
23 this act shall not affect the expiration of such paragraph and shall be
24 deemed to expire therewith, when upon such date the provisions of
25 section six of this act shall take effect; and

26 (b) the amendments to subdivision 4 of section 239 of the vehicle and
27 traffic law made by section seven of this act shall not affect the
28 repeal of such subdivision and shall be deemed to be repealed therewith,
29 when upon such date the provisions of section eight of this act shall
30 take effect, provided, further, that the amendments to subdivision 4 of
31 section 239 of the vehicle and traffic law made by section eight of this
32 act shall not affect the repeal of such subdivision and shall be deemed
33 to be repealed therewith, when upon such date the provisions of section
34 nine of this act shall take effect.