

7683

2015-2016 Regular Sessions

I N A S S E M B L Y

May 22, 2015

Introduced by M. of A. ROZIC, BRENNAN -- read once and referred to the
Committee on Corporations, Authorities and Commissions

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 adjudi-
cation bureau of the New York city transit authority

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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-
21 ance with the provisions of section [two thousand nine] TWENTY-NINE
22 hundred eighty-five of this chapter, AND (E) RULES AND REGULATIONS WHICH
23 MAY FROM TIME TO TIME BE ESTABLISHED BY THE METROPOLITAN TRANSPORTATION

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

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

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

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

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

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

44 a. (1) A person charged with a transit infraction returnable to the
45 bureau or a person alleged to be liable in accordance with the
46 provisions of section [two thousand nine] TWENTY-NINE hundred eighty-
47 five of this chapter who contests such allegation shall be advised of
48 the date on or by which he or she must appear to answer the charge at a
49 hearing. Notification of such hearing date shall be given either in the
50 notice of violation or in a form, the content of which shall be
51 prescribed by the executive director or in a manner prescribed in
52 section [two thousand nine] TWENTY-NINE hundred eighty-five of this
53 chapter. Any such notification shall contain a warning to advise the
54 person charged that failure to appear on or by the date designated, or
55 any subsequent rescheduled or adjourned date, shall be deemed for all
56 purposes, an admission of liability, and that a default judgment may be

1 rendered and penalties may be imposed. Where notification is given in a
2 manner other than in the notice of violation, the bureau shall deliver
3 such notice to the person charged, either personally or by [registered
4 or certified] FIRST CLASS mail.

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

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

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

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

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

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

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

34 S 6. This act shall take effect immediately.