

2247

2015-2016 Regular Sessions

I N S E N A T E

January 22, 2015

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the public authorities law, the vehicle and traffic law and chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, in relation to liability of vehicle owners for toll collection violations

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

1 Section 1. Section 2985 of the public authorities law is designated
2 title 11-A and a new title heading is added to read as follows:

3 TOLL COLLECTIONS

4 S 2. Subdivision 1 of section 2985 of the public authorities law, as
5 added by chapter 379 of the laws of 1992, is amended to read as follows:

6 1. Notwithstanding any other provision of law, every public authority
7 which operates a toll highway bridge and/or tunnel facility is hereby
8 authorized and empowered to impose monetary liability on the owner of a
9 vehicle for failure [of an operator thereof] to comply with the toll
10 collection regulations of such public authority in accordance with the
11 provisions of this section.

12 S 3. Subdivision 5 of section 2985 of the public authorities law, as
13 added by chapter 379 of the laws of 1992, is amended to read as follows:

14 5. An owner found liable for a violation of toll collection regu-
15 lations pursuant to this section shall for a first violation thereof be
16 liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND
17 FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED
18 dollars or two times the toll evaded whichever is greater; for a second
19 violation thereof both within eighteen months be liable for THE FULL
20 AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a
21 monetary penalty not to exceed [one] TWO hundred dollars or five times

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

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1 the toll evaded whichever is greater; for a third or subsequent
2 violation thereof all within eighteen months be liable for THE FULL
3 AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a
4 monetary penalty not to exceed [one] THREE hundred [fifty] dollars or
5 ten times the toll evaded whichever is greater.

6 S 4. Paragraphs (a) and (b) of subdivision 7 of section 2985 of the
7 public authorities law, as added by chapter 379 of the laws of 1992, are
8 amended to read as follows:

9 (a) A notice of liability shall be sent by first class mail to each
10 person alleged to be liable as an owner for a violation of toll
11 collection regulations. Such notice shall be mailed no later than [thir-
12 ty] SIXTY days after the alleged violation. Personal delivery on the
13 owner shall not be required. A manual or automatic record of mailing
14 prepared in the ordinary course of business shall be prima facie
15 evidence of the mailing of the notice.

16 (b) A notice of liability shall contain the name and address of the
17 person alleged to be liable as an owner for a violation of toll
18 collection regulations pursuant to this section, the registration number
19 AND STATE OF REGISTRATION of the vehicle involved in such violation, the
20 [location where such violation took place, the date and time] LOCATIONS,
21 DATES AND TIMES of such violation, THE AMOUNT OF THE ASSESSED TOLLS AND
22 OTHER CHARGES AND FEES, and the identification number of the photo-moni-
23 toring system which recorded the violation or other document locator
24 number.

25 S 5. Subdivision 8 of section 2985 of the public authorities law, as
26 added by chapter 379 of the laws of 1992, is amended to read as follows:

27 8. Adjudication of the liability imposed upon owners by this section
28 shall be by the entity having jurisdiction over violations of the rules
29 and regulations of the public authority serving the notice of liability
30 or where authorized by an administrative tribunal and all violations
31 shall be heard and determined in the county in which the violation is
32 alleged to have occurred, or in New York city and upon the consent of
33 both parties, in any county within New York city in which the public
34 authority operates or maintains a facility, and in the same manner as
35 charges of other regulatory violations of such public authority or
36 pursuant to the rules and regulations of such administrative tribunal as
37 the case may be. THE ENTITY OR ADMINISTRATIVE TRIBUNAL THAT ADJUDICATES
38 LIABILITY FOR A VIOLATION SHALL COLLECT THE FULL AMOUNT OF THE ASSESSED
39 TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO THE MONETARY PENALTY
40 OWED, AND SHALL PAY TO THE PUBLIC AUTHORITY WHOSE TOLL COLLECTION REGU-
41 LATIONS WERE VIOLATED THE HALF AMOUNT OF THE ASSESSED TOLLS, FULL AMOUNT
42 OF OTHER CHARGES AND FEES AND ONE-HALF OF THE MONETARY PENALTY, AND
43 DEPOSIT REMAINING HALF AMOUNT OF THE ASSESSED TOLLS INTO THE HIGHWAY AND
44 BRIDGE CAPITAL ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND
45 ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

46 S 6. Subdivision 10 of section 2985 of the public authorities law, as
47 amended by chapter 666 of the laws of 1993, is amended to read as
48 follows:

49 10. An owner who is a lessor of a vehicle to which a notice of liabil-
50 ity was issued pursuant to subdivision seven of this section shall not
51 be liable for the violation of the toll collection regulation provided
52 that he or she sends to the public authority serving the notice of
53 liability and to the court or other entity having jurisdiction a copy of
54 the rental, lease or other such contract document covering such vehicle
55 on the date of the violation, with the name and address of the lessee
56 clearly legible, within thirty days after receiving [the original]

1 notice of liability. Failure to send such information within such thirty
2 day time period shall render the lessor liable for the penalty
3 prescribed by this section. Where the lessor complies with the
4 provisions of this subdivision, the lessee of such vehicle on the date
5 of such violation shall be deemed to be the owner of such vehicle for
6 purposes of this section and shall be subject to liability for the
7 violation of toll collection regulations, provided that the public
8 authority mails a notice of liability to the lessee within ten days
9 after the court, or other entity having jurisdiction, deems the lessee
10 to be the owner. For purposes of this subdivision the term "lessor"
11 shall mean any person, corporation, firm, partnership, agency, associ-
12 ation or organization engaged in the business of renting or leasing
13 vehicles to any lessee under a rental agreement, lease or otherwise
14 wherein the said lessee has the exclusive use of said vehicle for any
15 period of time. For purposes of this subdivision, the term "lessee"
16 shall mean any person, corporation, firm, partnership, agency, associ-
17 ation or organization that rents, leases or contracts for the use of one
18 or more vehicles and has exclusive use thereof for any period of time.

19 S 7. Section 2985 of the public authorities law is amended by adding
20 two new subdivisions 15 and 16 to read as follows:

21 15. IN ADDITION TO ANY MONETARY LIABILITY THAT MAY BE IMPOSED PURSUANT
22 TO THIS SECTION, A PUBLIC AUTHORITY THAT OPERATES A TOLL HIGHWAY, BRIDGE
23 OR TUNNEL FACILITY IS HEREBY AUTHORIZED AND EMPOWERED TO IMPOSE AN
24 ADMINISTRATIVE FEE OR FEES ON AN OWNER, AN OPERATOR OR AN ACCOUNT HOLDER
25 THAT HAS VIOLATED TOLL COLLECTION REGULATIONS.

26 16. ANY NOTICE REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY FIRST
27 CLASS MAIL MAY INSTEAD BE SENT, WITH CONSENT, BY ELECTRONIC MEANS OF
28 COMMUNICATION. A MANUAL OR AUTOMATIC RECORD OF ELECTRONIC COMMUNICATIONS
29 PREPARED IN THE ORDINARY COURSE OF BUSINESS SHALL BE ADEQUATE EVIDENCE
30 OF ELECTRONIC NOTICE.

31 S 8. Paragraph b of subdivision 2 of section 240 of the vehicle and
32 traffic law, as added by chapter 715 of the laws of 1972, is amended to
33 read as follows:

34 b. No charge may be established except upon proof by substantial
35 evidence; EXCEPT THAT FOR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH
36 SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES
37 LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN
38 HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, NO CHARGE
39 MAY BE ESTABLISHED EXCEPT UPON PROOF BY PREPONDERANCE OF EVIDENCE AS
40 SUBMITTED.

41 S 9. Section 1209-a of the public authorities law is amended by adding
42 a new subdivision 11 to read as follows:

43 11. NOTICE. ANY NOTICE OR COMMUNICATION REQUIRED TO BE SENT PURSUANT
44 TO THIS SECTION BY REGISTERED MAIL OR CERTIFIED MAIL MAY INSTEAD BE SENT
45 BY FIRST CLASS MAIL OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNI-
46 CATION.

47 S 10. Section 2 of chapter 774 of the laws of 1950, relating to agree-
48 ing with the state of New Jersey with respect to rules and regulations
49 governing traffic on vehicular crossings operated by the port of New
50 York authority, is amended to read as follows:

51 S 2. No traffic shall be permitted in or upon vehicular crossings
52 except upon the payment of such tolls and other charges as may from time
53 to time be prescribed by the port authority. It is hereby declared to be
54 unlawful for any person to refuse to pay, or to evade or to attempt to
55 evade the payment of such tolls or other charges. THE OBLIGATION TO PAY

1 SUCH TOLLS AND OTHER CHARGES IS INCURRED AT THE TIME OF ENTRY INTO OR
2 USE OF THE PARTICULAR VEHICULAR CROSSING.

3 S 11. Section 16-a of chapter 774 of the laws of 1950, relating to
4 agreeing with the state of New Jersey with respect to rules and regu-
5 lations governing traffic on vehicular crossings operated by the port of
6 New York authority, as added by chapter 379 of the laws of 1992, is
7 amended to read as follows:

8 S 16-a. Owner liability for failure of operator to comply with toll
9 collection regulations of the port authority. Notwithstanding any other
10 provision of law and in accordance with the provisions of [section]
11 SECTIONS 16-b AND 16-C of this act, an owner of a vehicle may be held
12 liable for failure of an operator thereof to comply with the toll
13 collection regulations of the port authority of New York and New Jersey
14 (hereinafter called port authority). The owner of a vehicle shall be
15 liable pursuant to this section if such vehicle was used or operated
16 with the permission of the owner, express or implied, in violation of
17 the toll collection regulations of the port authority, and such
18 violation is evidenced by information obtained from a photo-monitoring
19 system, provided, however, that no owner of a vehicle shall be liable
20 where the operator of such vehicle has been convicted of a violation of
21 those toll collection regulations for the same incident.

22 S 12. Subdivision d of section 16-b of chapter 774 of the laws of
23 1950, relating to agreeing with the state of New Jersey with respect to
24 rules and regulations governing traffic on vehicular crossings operated
25 by the port of New York authority, as added by chapter 379 of the laws
26 of 1992, is amended to read as follows:

27 d. (i) A notice of liability shall be sent by first class mail OR,
28 WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION to each person
29 alleged to be liable as an owner for a violation pursuant to this
30 section of the toll collection regulations of the port authority. Such
31 notice shall be [mailed] SENT no later than [thirty] SIXTY days after
32 the alleged violation. Personal delivery on the owner shall not be
33 required. A manual or automatic record of [mailing] SENDING THE NOTICE
34 prepared in the ordinary course of business shall be prima facie
35 evidence of the [mailing] SENDING of the notice.

36 (ii) A notice of liability shall contain the name and address of the
37 person alleged to be liable as an owner for a violation of the toll
38 collection regulations of the port authority pursuant to this section,
39 the registration number AND STATE OF REGISTRATION of the vehicle
40 involved in such violation, the [location where such violation took
41 place, the date and time] LOCATIONS, DATES AND TIMES THAT FORM THE BASIS
42 of such violation, THE AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES
43 and the identification number of the photo-monitoring system which
44 recorded the violation or other document locator number.

45 (iii) The notice of liability shall contain information advising the
46 person charged of the manner and the time in which he may contest the
47 liability alleged in the notice. Such notice of liability shall also
48 contain a warning to advise the persons charged that failure to contest
49 in the manner and time provided shall be deemed an admission of liabil-
50 ity and that a default judgment may be entered thereon.

51 (iv) The notice of liability shall be prepared and [mailed] SENT by
52 the port authority or its duly authorized agent.

53 S 13. Section 16-c of chapter 774 of the laws of 1950, relating to
54 agreeing with the state of New Jersey with respect to rules and regu-
55 lations governing traffic on vehicular crossings operated by the port of

1 New York authority, as added by chapter 379 of the laws of 1992, is
2 amended to read as follows:

3 S 16-c. Adjudication of liability. Adjudication of the liability
4 imposed upon an owner by section 16-a of this act for a violation of the
5 toll collection regulations of the port authority occurring within the
6 territorial limits of the state of New York shall be in accordance with
7 the vehicle and traffic law of New York as set forth in sections 235,
8 236, 237, 239, 240, 241, 401, 510 and 1809 of such law, or by such enti-
9 ty having jurisdiction over violations of the toll collection regu-
10 lations of the port authority occurring within the territorial limits of
11 the state of New York, provided that all violations shall be heard and
12 determined in the county in which the violation is alleged to have
13 occurred, or by consent of both parties, OR in any county in the state
14 of New York in which the port authority operates or maintains a facili-
15 ty. An owner found liable for a violation of toll collection regu-
16 lations pursuant to this section shall for a first violation thereof be
17 liable for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND
18 FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED
19 dollars or two times the toll evaded whichever is greater; for a second
20 violation thereof both within eighteen months be liable for THE FULL
21 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a
22 monetary penalty not to exceed [one] TWO hundred dollars or five times
23 the toll evaded whichever is greater; for a third or subsequent
24 violation thereof all within eighteen months be liable for THE FULL
25 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a
26 monetary penalty not to exceed [one] THREE hundred [fifty] dollars or
27 ten times the toll evaded whichever is greater. THE HALF AMOUNT OF THE
28 ASSESSED TOLLS, AND THE FULL AMOUNT OF OTHER CHARGES AND FEES AND
29 ONE-HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL BE PAID TO THE PORT
30 AUTHORITY; THE REMAINING HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL
31 BE RETAINED OR DISTRIBUTED BY THE TRIBUNAL OR ENTITY ADJUDICATING THE
32 VIOLATION IN ACCORDANCE WITH EXISTING LAW; AND THE REMAINING HALF AMOUNT
33 OF THE ASSESSED TOLLS SHALL BE DEPOSITED INTO THE HIGHWAY AND BRIDGE
34 CAPITAL ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-
35 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

36 S 14. This act shall take effect on the one hundred twentieth day
37 after it shall have become a law.