

2401--A

Cal. No. 45

2015-2016 Regular Sessions

I N   S E N A T E

January 23, 2015

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Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

1     Section 1. Subdivision 5 of section 227 of the vehicle and traffic  
2     law, as amended by chapter 690 of the laws of 1996, is amended to read  
3     as follows:  
4     5. All penalties and forfeited security collected pursuant to the  
5     provisions of this article shall be paid to the department of audit and  
6     control to the credit of the justice court fund and shall be subject to  
7     the applicable provisions of section eighteen hundred three of this  
8     chapter. After such audit as shall reasonably be required by the comp-  
9     troller, such penalties and forfeited security shall be paid quarterly  
10    or, in the discretion of the comptroller, monthly, to the appropriate  
11    jurisdiction in which the violation occurred in accordance with the  
12    provisions of section ninety-nine-a of the state finance law, except

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

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1 that the sum of four dollars for each violation occurring in such juris-  
2 diction for which a complaint has been filed with the administrative  
3 tribunal established pursuant to this article shall be retained by the  
4 state. The amount distributed during the first three quarters to the  
5 [cities] CITY of Rochester [and Buffalo] in any given fiscal year shall  
6 not exceed seventy percent of the amount which will be otherwise paya-  
7 ble. Provided, however, that if the full costs of administering this  
8 article shall exceed the amounts received and retained by the state for  
9 any period specified by the commissioner, then such additional sums as  
10 shall be required to offset such costs shall be retained by the state  
11 out of the penalties and forfeited security collected pursuant to this  
12 article.

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

15 4. THERE SHALL BE AN EXECUTIVE DEPARTMENT OF THE BUFFALO CITY GOVERN-  
16 MENT KNOWN AS THE BUFFALO TRAFFIC VIOLATIONS AGENCY, WHICH SHALL OPERATE  
17 UNDER THE DIRECTION AND CONTROL OF THE MAYOR.

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

21 1-A. "TRAFFIC VIOLATIONS AGENCY" SHALL MEAN AN EXECUTIVE DEPARTMENT OF  
22 THE CITY OF BUFFALO ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF SECTION  
23 THREE HUNDRED SEVENTY OF THIS ARTICLE TO ADMINISTER AND DISPOSE OF TRAF-  
24 FIC INFRACTIONS AS AUTHORIZED PURSUANT TO THIS ARTICLE.

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

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

35 2-A. THE BUFFALO TRAFFIC VIOLATIONS AGENCY, AS ESTABLISHED IN SUBDIVI-  
36 SION FOUR OF SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE, MAY BE  
37 AUTHORIZED TO ASSIST THE BUFFALO CITY COURT IN THE DISPOSITION AND  
38 ADMINISTRATION OF INFRACTIONS OF TRAFFIC LAWS, ORDINANCES, RULES AND  
39 REGULATIONS EXCEPT THAT SUCH AGENCY SHALL NOT HAVE JURISDICTION OVER (A)  
40 THE TRAFFIC INFRACTION DEFINED UNDER SUBDIVISION ONE OF SECTION ELEVEN  
41 HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW; (B) THE TRAFFIC  
42 INFRACTION DEFINED UNDER SUBDIVISION FIVE OF SECTION ELEVEN HUNDRED  
43 NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW; (C) THE VIOLATION DEFINED  
44 UNDER PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION FOURTEEN-F OF THE  
45 TRANSPORTATION LAW AND THE VIOLATION DEFINED UNDER CLAUSE (B) OF SUBPAR-  
46 AGRAPH (III) OF PARAGRAPH C OF SUBDIVISION TWO OF SECTION ONE HUNDRED  
47 FORTY OF THE TRANSPORTATION LAW; (D) THE TRAFFIC INFRACTION DEFINED  
48 UNDER SECTION THREE HUNDRED NINETY-SEVEN-A OF THE VEHICLE AND TRAFFIC  
49 LAW AND THE TRAFFIC INFRACTION DEFINED UNDER SUBDIVISION (G) OF SECTION  
50 ELEVEN HUNDRED EIGHTY OF THE VEHICLE AND TRAFFIC LAW; (E) TRAFFIC  
51 INFRACTIONS CONSTITUTING PARKING, STANDING, STOPPING OR PEDESTRIAN  
52 OFFENSES; (F) ANY MISDEMEANOR OR FELONY; OR (G) ANY OFFENSE THAT IS PART  
53 OF THE SAME CRIMINAL TRANSACTION, AS THAT TERM IS DEFINED IN SUBDIVISION  
54 TWO OF SECTION 40.10 OF THE CRIMINAL PROCEDURE LAW, AS A VIOLATION OF  
55 SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND  
56 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 SUBDIVISION 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)

1 AND (G) OF SUBDIVISION TWO-A OF SECTION THREE HUNDRED SEVENTY-ONE OF  
2 THIS ARTICLE, TO BE HEARD, TRIED OR OTHERWISE DISPOSED OF BY THE BUFFALO  
3 CITY COURT. SUCH PERSONS SHALL BE KNOWN AS "TRAFFIC PROSECUTORS", AS  
4 THAT TERM IS DEFINED IN SECTION THREE HUNDRED SEVENTY-A OF THIS ARTICLE.  
5 TRAFFIC PROSECUTORS SHALL HAVE THE SAME POWER AS A DISTRICT ATTORNEY  
6 WOULD OTHERWISE HAVE IN THE PROSECUTION OF ANY TRAFFIC INFRACTION WHICH  
7 MAY, PURSUANT TO THE JURISDICTIONAL PROVISIONS OF SECTION THREE HUNDRED  
8 SEVENTY-ONE OF THIS ARTICLE, BE PROSECUTED BEFORE THE BUFFALO CITY COURT  
9 IF THE TRAFFIC VIOLATION OCCURRED IN THE CITY OF BUFFALO. THE EXECUTIVE  
10 DIRECTOR SHALL GIVE ACTIVE CONSIDERATION TO REQUIRING THAT SUCH TRAFFIC  
11 PROSECUTORS SERVE ON A FULL-TIME BASIS. TRAFFIC PROSECUTORS ARE PROHIB-  
12 ITED FROM APPEARING IN ANY CAPACITY OTHER THAN AS A TRAFFIC PROSECUTOR  
13 IN ANY PART OF THE BUFFALO CITY COURT ON ANY MATTER RELATING TO TRAFFIC  
14 VIOLATIONS AND ARE FURTHER PROHIBITED FROM APPEARING IN ANY CAPACITY  
15 OTHER THAN AS A TRAFFIC PROSECUTOR IN ANY OTHER COURT OR ADMINISTRATIVE  
16 TRIBUNAL ON ANY MATTER RELATING TO TRAFFIC VIOLATIONS.

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

26 (C) IT SHALL BE A MISDEMEANOR FOR THE EXECUTIVE DIRECTOR, ANY TRAFFIC  
27 PROSECUTOR OR ANY JUDICIAL HEARING OFFICER ASSIGNED TO HEAR TRAFFIC  
28 VIOLATIONS CASES PURSUANT TO SECTION SIXTEEN HUNDRED NINETY OF THE VEHI-  
29 CLE AND TRAFFIC LAW TO ESTABLISH ANY QUOTA OF TRAFFIC VIOLATION  
30 CONVICTIONS WHICH MUST BE OBTAINED BY ANY TRAFFIC PROSECUTOR OR JUDICIAL  
31 HEARING OFFICER. NOTHING CONTAINED HEREIN SHALL PROHIBIT THE TAKING OF  
32 ANY JOB ACTION AGAINST A TRAFFIC PROSECUTOR OR JUDICIAL HEARING OFFICER  
33 FOR FAILURE TO SATISFACTORILY PERFORM SUCH PROSECUTOR'S OR OFFICER'S JOB  
34 ASSIGNMENT EXCEPT THAT THE EMPLOYMENT PRODUCTIVITY OF SUCH PROSECUTOR OR  
35 OFFICER SHALL NOT BE MEASURED BY THE ATTAINMENT OR NONATTAINMENT OF ANY  
36 CONVICTION QUOTA. FOR THE PURPOSES OF THIS SECTION A CONVICTION QUOTA  
37 SHALL MEAN A SPECIFIC NUMBER OF CONVICTIONS WHICH MUST BE OBTAINED WITH-  
38 IN A SPECIFIC TIME PERIOD.

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

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

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

56 a. electronic funds transfer;

1 b. remittance of funds by the justice court to the chief fiscal office  
2 of the town or village, or, in the case of the Nassau and Suffolk coun-  
3 ties traffic and parking violations agencies, to the county treasurer,  
4 OR, IN THE CASE OF THE BUFFALO TRAFFIC VIOLATIONS AGENCY, TO THE CITY OF  
5 BUFFALO COMPTROLLER, for distribution in accordance with instructions by  
6 the comptroller; and/or

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

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

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

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

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

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

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

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

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

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

54 (1) any of the provisions of this chapter except one for parking,  
55 stopping or standing and except those violations described in paragraphs  
56 (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

1 or a felony. A traffic infraction is not a crime and the punishment  
2 imposed therefor shall not be deemed for any purpose a penal or criminal  
3 punishment and shall not affect or impair the credibility as a witness  
4 or otherwise of any person convicted thereof. This definition shall be  
5 retroactive and shall apply to all acts and violations heretofore  
6 committed where such acts and violations would, if committed subsequent  
7 to the taking effect of this section, be included within the meaning of  
8 the term "traffic infraction" as herein defined. Except in those  
9 portions of Suffolk county for which a district court has been estab-  
10 lished, outside of cities having a population in excess of two hundred  
11 thousand BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which administra-  
12 tive tribunals have heretofore been established AND OUTSIDE OF CITIES  
13 HAVING A POPULATION OF ONE MILLION IN WHICH ADMINISTRATIVE TRIBUNALS  
14 HAVE HERETOFORE BEEN ESTABLISHED, courts and judicial officers hereto-  
15 fore having jurisdiction over such violations shall continue to do so  
16 and for such purpose such violations shall be deemed misdemeanors and  
17 all provisions of law relating to misdemeanors except as provided in  
18 section eighteen hundred five of this chapter and except as herein  
19 otherwise expressly provided shall apply except that no jury trial shall  
20 be allowed for traffic infractions. In those portions of Suffolk county  
21 for which a district court has been established, and in cities having a  
22 population in excess of two hundred thousand BUT LESS THAN TWO HUNDRED  
23 TWENTY THOUSAND in which administrative tribunals have heretofore been  
24 established AND IN CITIES HAVING A POPULATION IN EXCESS OF ONE MILLION  
25 IN WHICH ADMINISTRATIVE TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, the  
26 criminal courts of such cities or portions of Suffolk county in which a  
27 district court has been established shall have jurisdiction to hear and  
28 determine any complaint alleging a violation constituting a traffic  
29 infraction, except that administrative tribunals heretofore established  
30 in such cities or portions of Suffolk county in which a district court  
31 has been established shall have jurisdiction to hear and determine any  
32 charge of an offense which is a traffic infraction, except parking,  
33 standing or stopping. In cities having a population in excess of two  
34 hundred thousand in which administrative tribunals have heretofore been  
35 established, and any such administrative tribunal established by the  
36 city of Yonkers, the city of Peekskill, or the city of Syracuse, such  
37 tribunals shall have jurisdiction to hear and determine any charge of an  
38 offense which is a parking, standing or stopping violation. Any fine  
39 imposed by an administrative tribunal shall be a civil penalty. For  
40 purposes of arrest without a warrant, pursuant to article one hundred  
41 forty of the criminal procedure law, a traffic infraction shall be  
42 deemed an offense.

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

46 1. Notwithstanding any inconsistent provision of law, all violations  
47 of this chapter or of a law, ordinance, order, rule or regulation relat-  
48 ing to traffic, except parking, standing, stopping or pedestrian  
49 offenses, which occur within a city having a population of two hundred  
50 thousand or more BUT LESS THAN TWO HUNDRED TWENTY THOUSAND in which  
51 administrative tribunals have heretofore been established, OR WITHIN A  
52 CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH ADMINISTRATIVE  
53 TRIBUNALS HAVE HERETOFORE BEEN ESTABLISHED, and which are classified as  
54 traffic infractions, may be heard and determined pursuant to the regu-  
55 lations of the commissioner as provided in this article. Whenever a  
56 crime and a traffic infraction arise out of the same transaction or



1 occurrence, a charge alleging both offenses may be made returnable  
2 before the court having jurisdiction over the crime. Nothing herein  
3 provided shall be construed to prevent a court, having jurisdiction over  
4 a criminal charge relating to traffic or a traffic infraction, from  
5 lawfully entering a judgment of conviction, whether or not based on a  
6 plea of guilty, for any offense classified as a traffic infraction.

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

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

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

36 S 19. This act shall take effect immediately; provided, however, that  
37 the provisions of sections two, three, seven, and eleven through four-  
38 teen of this act shall take effect on the same date as the city of  
39 Buffalo shall have established a traffic violations agency, by enactment  
40 of a local law hereby authorized; provided, further, that if estab-  
41 lished, such agency and the city of Buffalo shall comply with all the  
42 provisions of law set forth in this act; provided, further, that the  
43 amendments to section 371 of the general municipal law made by sections  
44 four, five and six of this act shall not affect the expiration of such  
45 section and shall be deemed to expire therewith; provided, further, that  
46 the city of Buffalo shall notify the legislative bill drafting commis-  
47 sion upon the occurrence of the enactment of the local law provided for  
48 in this section in order that the commission may maintain an accurate  
49 and timely effective data base of the official text of the laws of the  
50 state of New York in furtherance of effectuating the provisions of  
51 section 44 of the legislative law and section 70-b of the public offi-  
52 cers law; and provided, further, that sections one, four through six,  
53 eight through ten, and fifteen through eighteen of this act shall take  
54 effect forty-five days after the city of Buffalo shall have established  
55 a traffic violations agency by enactment of a local law pursuant to this  
56 section.