

# STATE OF NEW YORK

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2011

2017-2018 Regular Sessions

## IN ASSEMBLY

January 17, 2017

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Introduced by M. of A. LENTOL -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to truck weight photo-monitoring systems in cities with a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1642-b to read as follows:

3 § 1642-b. Owner liability for failure of operator to comply with  
4 no-thru truck indications. (a) Notwithstanding any other provision of  
5 law, each city with a population of one million or more is hereby  
6 authorized and empowered to adopt and amend a local law or ordinance  
7 establishing a demonstration program imposing monetary liability on the  
8 owner of a vehicle for failure of an operator thereof to comply with  
9 no-thru truck indications in such city in accordance with the provisions  
10 of this section. Such demonstration program shall empower a city to  
11 install and operate truck weight photo-monitoring devices at no more  
12 than fifty intersections within such city at any one time.

13 (b) In any city which has adopted a local law or ordinance pursuant to  
14 subdivision (a) of this section, the owner of a vehicle shall be liable  
15 for a penalty imposed pursuant to this section if such vehicle was used  
16 or operated with the permission of the owner, express or implied, in  
17 violation of driving through a prohibited no-truck zone designated  
18 pursuant to subdivision (f) of section eighteen hundred of this chapter,  
19 and such violation is evidenced by information obtained from a truck  
20 weight violation-monitoring system; provided however that no owner of a  
21 vehicle shall be liable for a penalty imposed pursuant to this section  
22 where the operator of such vehicle has been convicted of the underlying  
23 violation of subdivision (f) of section eighteen hundred of this chap-  
24 ter.

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

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1 (c) For purposes of this section, "owner" shall have the meaning  
2 provided in article two-B of this chapter. For purposes of this section,  
3 "truck weight violation-monitoring system" shall mean a vehicle sensor  
4 installed to work in conjunction with a vehicle scale which automat-  
5 ically produces two or more photographs, two or more microphotographs, a  
6 videotape or other recorded images of each vehicle at the time it is  
7 used or operated in violation of subdivision (f) of section eighteen  
8 hundred of this chapter.

9 (d) A certificate, sworn to or affirmed by a technician employed by  
10 the city in which the charged violation occurred, or a facsimile there-  
11 of, based upon inspection of photographs, microphotographs, videotape or  
12 other recorded images produced by a truck weight violation-monitoring  
13 system, shall be prima facie evidence of the facts contained therein.  
14 Any photographs, microphotographs, videotape or other recorded images  
15 evidencing such a violation shall be available for inspection in any  
16 proceeding to adjudicate the liability for such violation pursuant to a  
17 local law or ordinance adopted pursuant to this section.

18 (e) An owner liable for a violation of subdivision (f) of section  
19 eighteen hundred of this chapter pursuant to a local law or ordinance  
20 adopted pursuant to this section shall be liable for monetary penalties  
21 in accordance with a schedule of fines and penalties to be set forth in  
22 such local law or ordinance, except that in a city which, by local law,  
23 has authorized the adjudication of such owner liability by a parking  
24 violations bureau, such schedule shall be promulgated by such bureau.  
25 The liability of the owner pursuant to this section shall not exceed  
26 fifty dollars for each violation; provided, however, that such local law  
27 or ordinance may provide for an additional penalty not in excess of  
28 twenty-five dollars for each violation for the failure to respond to a  
29 notice of liability within the prescribed time period.

30 (f) An imposition of liability under a local law or ordinance adopted  
31 pursuant to this section shall not be deemed a conviction as an operator  
32 and shall not be made part of the operating record of the person upon  
33 whom such liability is imposed nor shall it be used for insurance  
34 purposes in the provision of motor vehicle insurance coverage.

35 (g) 1. A notice of liability shall be sent by first class mail to each  
36 person alleged to be liable as an owner for a violation of subdivision  
37 (f) of section eighteen hundred of this chapter pursuant to this  
38 section. Personal delivery on the owner shall not be required. A manual  
39 or automatic record of mailing prepared in the ordinary course of busi-  
40 ness shall be prima facie evidence of the facts contained therein.

41 2. A notice of liability shall contain the name and address of the  
42 person alleged to be liable as an owner for a violation of subdivision  
43 (f) of section eighteen hundred of this chapter pursuant to this  
44 section, the registration number of the vehicle involved in such  
45 violation, the location where such violation took place, the date and  
46 time of such violation and the identification number of the camera which  
47 recorded the violation or other document locator number.

48 3. The notice of liability shall contain information advising the  
49 person charged of the manner and the time in which he or she may contest  
50 the liability alleged in the notice. Such notice of liability shall also  
51 contain a warning to advise the persons charged that failure to contest  
52 in the manner and time provided shall be deemed an admission of liabil-  
53 ity and that a default judgment may be entered thereon.

54 4. The notice of liability shall be prepared and mailed by the city  
55 having jurisdiction over the intersection where the violation occurred,

1 or by any other entity authorized by the city to prepare and mail such  
2 notification of violation.

3 (h) Adjudication of the liability imposed upon owners by this section  
4 shall be by a traffic violations bureau established pursuant to section  
5 three hundred seventy of the general municipal law or, if there be none,  
6 by the court having jurisdiction over traffic infractions, except that  
7 any city which has established an administrative tribunal to hear and  
8 determine complaints of traffic infractions constituting parking, stand-  
9 ing or stopping violations may, by local law, authorize such adjudi-  
10 cation by such tribunal.

11 (i) If an owner receives a notice of liability pursuant to this  
12 section for any time period during which the vehicle was reported to the  
13 police department as having been stolen, it shall be a valid defense to  
14 an allegation of liability for a violation of subdivision (f) of section  
15 eighteen hundred of this chapter pursuant to this section that the vehi-  
16 cle had been reported to the police as stolen prior to the time the  
17 violation occurred and had not been recovered by such time; or that the  
18 vehicle was making a legitimate delivery within the area. For purposes  
19 of asserting the defenses provided by this subdivision it shall be  
20 sufficient that a certified copy of the police report on the stolen  
21 vehicle or a copy of an invoice or some other proof of delivery be sent  
22 by first class mail to the traffic violations bureau, court having  
23 jurisdiction or parking violations bureau.

24 (j) 1. In a city where the adjudication of liability imposed upon  
25 owners pursuant to this section is by a traffic violations bureau or a  
26 court having jurisdiction, an owner who is a lessor of a vehicle to  
27 which a notice of liability was issued pursuant to subdivision (g) of  
28 this section shall not be liable for the violation of subdivision (f) of  
29 section eighteen hundred of this chapter, provided that he or she sends  
30 to the traffic violations bureau or court having jurisdiction a copy of  
31 the rental, lease or other such contract document covering such vehicle  
32 on the date of the violation, with the name and address of the lessee  
33 clearly legible, within thirty-seven days after receiving notice from  
34 the bureau or court of the date and time of such violation, together  
35 with the other information contained in the original notice of liabil-  
36 ity. Failure to send such information within such thirty-seven day time  
37 period shall render the owner liable for the penalty prescribed by this  
38 section. Where the lessor complies with the provisions of this para-  
39 graph, the lessee of such vehicle on the date of such violation shall be  
40 deemed to be the owner of such vehicle for purposes of this section,  
41 shall be subject to liability for the violation of subdivision (f) of  
42 section eighteen hundred of this chapter pursuant to this section and  
43 shall be sent a notice of liability pursuant to subdivision (g) of this  
44 section.

45 2. (i) In a city which, by local law, has authorized the adjudication  
46 of liability imposed upon owners by this section by a parking violations  
47 bureau, an owner who is a lessor of a vehicle to which a notice of  
48 liability was issued pursuant to subdivision (g) of this section shall  
49 not be liable for the violation of subdivision (f) of section eighteen  
50 hundred of this chapter, provided that:

51 (A) prior to the violation, the lessor has filed with the bureau in  
52 accordance with the provisions of section two hundred thirty-nine of  
53 this chapter; and

54 (B) within thirty-seven days after receiving notice from the bureau of  
55 the date and time of a liability, together with the other information  
56 contained in the original notice of liability, the lessor submits to the

1 bureau the correct name and address of the lessee of the vehicle identi-  
2 fied in the notice of liability at the time of such violation, together  
3 with such other additional information contained in the rental, lease or  
4 other contract document, as may be reasonably required by the bureau  
5 pursuant to regulations that may be promulgated for such purpose.

6 (ii) Failure to comply with clause (B) of subparagraph (i) of this  
7 paragraph shall render the owner liable for the penalty prescribed in  
8 this section.

9 (iii) Where the lessor complies with the provisions of this paragraph,  
10 the lessee of such vehicle on the date of such violation shall be deemed  
11 to be the owner of such vehicle for purposes of this section, shall be  
12 subject to liability for such violation pursuant to this section and  
13 shall be sent a notice of liability pursuant to subdivision (g) of this  
14 section.

15 (k) If the owner liable for a violation of subdivision (f) of section  
16 eighteen hundred of this chapter pursuant to this section was not the  
17 operator of the vehicle at the time of the violation, the owner may  
18 maintain an action for indemnification against the operator.

19 (l) Nothing in this section shall be construed to limit the liability  
20 of an operator of a vehicle for any violation of subdivision (f) of  
21 section eighteen hundred of this chapter.

22 (m) In any city which adopts a demonstration program pursuant to  
23 subdivision (a) of this section, such city shall submit a report on the  
24 results of the use of a truck weight photo-monitoring system to the  
25 governor, the temporary president of the senate and the speaker of the  
26 assembly by March first, two thousand twenty. Such report shall include,  
27 but not be limited to:

28 1. a description of the locations where truck weight photo-monitoring  
29 systems were used;

30 2. the number of violations recorded at each intersection and in the  
31 aggregate on a daily, weekly and monthly basis;

32 3. the total number of notices of liability issued;

33 4. the number of fines and total amount of fines paid after first  
34 notice of liability;

35 5. the number of violations adjudicated and results of such adjudi-  
36 cations including breakdowns of dispositions made;

37 6. the total amount of revenue realized by such city; and

38 7. quality of the adjudication process and its results.

39 § 2. This act shall take effect on the one hundred eightieth day after  
40 it shall have become a law. Effective immediately the addition, amend-  
41 ment, and/or repeal of any rule or regulation necessary for the timely  
42 implementation of this act on its effective date is hereby authorized to  
43 be made on or before such effective date.