

STATE OF NEW YORK

2011

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

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.