

# STATE OF NEW YORK

8622

2017-2018 Regular Sessions

## IN ASSEMBLY

September 1, 2017

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

AN ACT to amend the vehicle and traffic law, in relation to establishing in the town of Southampton a demonstration program to enforce maximum speed limits on County Road 39 in the county of Suffolk by means of speed limit photo devices; and providing for the repeal of such provisions upon expiration thereof

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 1180-d to read as follows:

3 § 1180-d. Owner liability for failure of the operator to comply with  
4 applicable maximum speed limit in the town of Southampton, county of  
5 Suffolk. 1. Notwithstanding any other provision of law, the town of  
6 Southampton in the county of Suffolk is hereby authorized and empowered  
7 to establish a demonstration program on County Road 39 in the county of  
8 Suffolk imposing monetary liability on the owner of a vehicle for fail-  
9 ure of an operator thereof to comply with the applicable maximum speed  
10 limit on such road in such town in accordance with the provisions of  
11 this section. Such town, for purposes of the implementation of such  
12 program, shall operate speed limit photo devices within the town at no  
13 more than five locations at any one time during any year of such  
14 program. Such speed limit photo devices may be stationary or mobile and  
15 shall be activated at locations selected by such town. Such speed limit  
16 photo devices shall be placed at locations based on criteria, including  
17 but not limited to whether the location is within a quarter mile of a  
18 school, speeding data, accident history, proximity to facilities for  
19 senior citizens or disabled persons, roadway geometry and equitable  
20 geographic distribution.

21 2. Where the town that has established a demonstration program pursu-  
22 ant to subdivision one of this section, the owner of a vehicle shall be

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

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1 liable for a penalty imposed pursuant to this section if such vehicle  
2 was used or operated with the permission of the owner, express or  
3 implied, in violation of subdivision (c) or (d) of section eleven  
4 hundred eighty of this article, and such violation is evidenced by  
5 information obtained from a speed limit photo device; provided however  
6 that no owner of a vehicle shall be liable for a penalty imposed pursu-  
7 ant to this section where the operator of such vehicle has been  
8 convicted of the underlying violation of subdivision (c) or (d) of  
9 section eleven hundred eighty of this article.

10 3. Such demonstration program shall utilize necessary technologies to  
11 ensure, to the extent practicable, that photographs produced by such  
12 speed limit photo devices shall not include images that identify the  
13 driver, the passengers or the contents of the vehicle, provided, howev-  
14 er, that no notice of liability issued pursuant to this section shall be  
15 dismissed solely because a photograph or photographs allow for the iden-  
16 tification of the driver, the passengers or other contents of a vehicle,  
17 provided that the town has made a reasonable effort to comply with the  
18 provisions of this subdivision.

19 4. Such demonstration program shall include a prohibition on the use  
20 or dissemination of vehicles' license plate information and other infor-  
21 mation and images captured by speed cameras except as required to estab-  
22 lish liability under this section or collect payment of penalties;  
23 except as required to respond to a request by law enforcement officials  
24 pertaining to a specific accident or specific incident of alleged crimi-  
25 nal conduct; or except as otherwise required by law.

26 5. For purposes of this section, "owner" shall have the meaning  
27 provided in section two hundred thirty-nine of this chapter. For  
28 purposes of this section, "speed limit photo device" shall mean equip-  
29 ment that takes a film or digital camera-based photograph, microphoto-  
30 graph, video, or other recorded image which is linked with a violation  
31 detection system that synchronizes the taking of such image of a vehicle  
32 at the time the vehicle is used or operated in violation of subdivision  
33 (c) or (d) of section eleven hundred eighty of this article. For the  
34 purposes of this section "town" shall mean the town of Southamptn.

35 6. A certificate, sworn to or affirmed by a technician employed by the  
36 county in which the charged violation occurred or its vendor or contrac-  
37 tor, or a facsimile thereof, based upon inspection of photographs,  
38 microphotographs, videotape or other recorded images produced by a speed  
39 limit photo device, shall be prima facie evidence of the facts contained  
40 therein. Any photographs, microphotographs, videotape or other recorded  
41 images evidencing such a violation shall be available for inspection in  
42 any proceeding to adjudicate the liability for such violation pursuant  
43 to this section.

44 7. An owner liable for a violation of subdivision (c) or (d) of  
45 section eleven hundred eighty of this article shall be liable for mone-  
46 tary penalties in accordance with a schedule of fines and penalties  
47 promulgated by the parking violations bureau of such county; provided,  
48 however, that the monetary penalty for driving at a speed in excess of  
49 the maximum speed limit by ten or more miles per hour and less than  
50 thirty miles per hour shall not exceed fifty dollars, and the monetary  
51 penalty for driving in excess of the maximum speed limit by thirty or  
52 more miles per hour shall not exceed one hundred dollars; provided,  
53 further, that an owner shall be liable for an additional penalty not to  
54 exceed twenty-five dollars for each violation for the failure to respond  
55 to a notice of liability within the prescribed time period.

1     8. An imposition of liability pursuant to this section shall not be  
2 deemed a conviction as an operator and shall not be made part of the  
3 operating record of the person upon whom such liability is imposed nor  
4 shall it be used for insurance purposes in the provision of motor vehi-  
5 cle insurance coverage.

6     9. (a) A notice of liability shall be sent by first class mail in  
7 accordance with this section to each person alleged to be liable as an  
8 owner for a violation of subdivision (c) or (d) of section eleven  
9 hundred eighty of this article. Personal delivery on the owner shall not  
10 be required. A manual or automatic record of mailing prepared in the  
11 ordinary course of business shall be prima facie evidence of the facts  
12 contained therein.

13     (b) A notice of liability shall contain the name and address of the  
14 person alleged to be liable as an owner for a violation of subdivision  
15 (c) or (d) of section eleven hundred eighty of this article, the regis-  
16 tration number of the vehicle involved in such violation, the location  
17 where such violation took place, the date and time of such violation and  
18 the identification number of the speed limit photo device which recorded  
19 the violation or other document locator number.

20     (c) The notice of liability shall contain information advising the  
21 person charged of the manner and the time in which he or she may contest  
22 the liability alleged in the notice. Such notice of liability shall  
23 also contain a warning to advise the person charged that failure to  
24 contest in the manner and time provided shall be deemed an admission of  
25 liability and that a default judgment may be entered thereon.

26     (d) The notice of liability shall be prepared and mailed by the agency  
27 or agencies designated by the town.

28     10. If an owner of a vehicle receives a notice of liability pursuant  
29 to this section for any time period during which such vehicle was  
30 reported to the police department as having been stolen, it shall be a  
31 valid defense to an allegation of liability for a violation of subdivi-  
32 sion (c) or (d) of section eleven hundred eighty of this article that  
33 the vehicle had been reported to the police as stolen prior to the time  
34 the violation occurred and had not been recovered by such time. For  
35 purposes of asserting the defense provided by this subdivision it shall  
36 be sufficient that an original incident form issued by the police on the  
37 stolen vehicle be sent by first class mail to the justice court of said  
38 town.

39     11. (a) An owner who is a lessor of a vehicle to which a notice of  
40 liability was issued pursuant to subdivision nine of this section shall  
41 not be liable for the violation of subdivision (c) or (d) of section  
42 eleven hundred eighty of this article, provided that:

43     (i) prior to the violation, the lessor has filed with the town in  
44 accordance with the provisions of section two hundred thirty-nine of  
45 this chapter; and

46     (ii) within thirty-seven days after receiving notice from the town of  
47 the date and time of a liability, together with the other information  
48 contained in the original notice of liability, the lessor submits to  
49 such court the correct name and address of the lessee of the vehicle  
50 identified in the notice of liability at the time of such violation,  
51 together with such other additional information contained in the rental,  
52 lease or other contract document, as may be reasonably required by such  
53 bureau pursuant to regulations that may be promulgated for such purpose.

54     (b) Failure to comply with subparagraph (ii) of paragraph (a) of this  
55 subdivision shall render the owner liable for the penalty prescribed in  
56 this section.

1 (c) Where the lessor complies with the provisions of paragraph (a) of  
2 this subdivision, the lessee of such vehicle on the date of such  
3 violation shall be deemed to be the owner of such vehicle for purposes  
4 of this section, shall be subject to liability for such violation pursu-  
5 ant to this section and shall be sent a notice of liability pursuant to  
6 subdivision nine of this section.

7 12. If the owner liable for a violation of subdivision (c) or (d) of  
8 section eleven hundred eighty of this article pursuant to this section  
9 was not the operator of the vehicle at the time of the violation, the  
10 owner may maintain an action for indemnification against the operator.

11 13. Nothing in this section shall be construed to limit the liability  
12 of an operator of a vehicle for any violation of subdivision (c) or (d)  
13 of section eleven hundred eighty of this article.

14 14. Where the town adopts a demonstration program pursuant to subdivi-  
15 sion one of this section, the town shall submit a report on the results  
16 of the use of speed limit photo devices to the governor, the temporary  
17 president of the senate and the speaker of the assembly by April first,  
18 two thousand twenty-three. Such report shall include, but not be limit-  
19 ed to:

20 (a) a description of the locations where speed limit photo devices  
21 were used;

22 (b) the number of violations recorded at each such location and in the  
23 aggregate on a daily, weekly and monthly basis;

24 (c) the total number of notices of liability issued;

25 (d) the number of fines and total amount of fines paid after first  
26 notice of liability;

27 (e) the number of violations adjudicated and results of such adjudi-  
28 cations including breakdowns of dispositions made;

29 (f) the total amount of revenue realized by such county; and

30 (g) quality of the adjudication process and its results.

31 § 2. This act shall take effect on the thirtieth day after it shall  
32 have become a law and shall expire 5 years after such effective date  
33 when upon such date the provisions of this act shall be deemed repealed.