

STATE OF NEW YORK

8746

IN SENATE

May 10, 2018

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

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to establishing in the city of Buffalo a demonstration program implementing speed violation monitoring systems in school speed zones by means of 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. Subdivision 1 of section 235 of the vehicle and traffic
2 law, as amended by chapter 222 of the laws of 2015, is amended to read
3 as follows:

4 1. Notwithstanding any inconsistent provision of any general, special
5 or local law or administrative code to the contrary, in any city which
6 heretofore or hereafter is authorized to establish an administrative
7 tribunal to hear and determine complaints of traffic infractions consti-
8 tuting parking, standing or stopping violations, or to adjudicate the
9 liability of owners for violations of subdivision (d) of section eleven
10 hundred eleven of this chapter in accordance with section eleven hundred
11 eleven-a of this chapter, or to adjudicate the liability of owners for
12 violations of subdivision (d) of section eleven hundred eleven of this
13 chapter in accordance with sections eleven hundred eleven-b of this
14 chapter as added by sections sixteen of chapters twenty, twenty-one, and
15 twenty-two of the laws of two thousand nine, or to adjudicate the
16 liability of owners for violations of subdivision (d) of section eleven
17 hundred eleven of this chapter in accordance with section eleven hundred
18 eleven-d of this chapter, or to adjudicate the liability of owners for
19 violations of subdivision (d) of section eleven hundred eleven of this
20 chapter in accordance with section eleven hundred eleven-e of this chap-
21 ter, or to adjudicate the liability of owners for violations of toll
22 collection regulations as defined in and in accordance with the
23 provisions of section two thousand nine hundred eighty-five of the
24 public authorities law and sections sixteen-a, sixteen-b and sixteen-c
25 of chapter seven hundred seventy-four of the laws of nineteen hundred

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

LBD15911-01-8

1 fifty, or to adjudicate liability of owners in accordance with section
2 eleven hundred eleven-c of this chapter for violations of bus lane
3 restrictions as defined in subdivision (b), (c), (d), (f) or (g) of such
4 section, or to adjudicate the liability of owners for violations of
5 section eleven hundred eighty of this chapter in accordance with section
6 eleven hundred eighty-b of this chapter, or to adjudicate the liability
7 of owners for violations of section eleven hundred eighty of this chap-
8 ter in accordance with section eleven hundred eighty-d of this chapter,
9 such tribunal and the rules and regulations pertaining thereto shall be
10 constituted in substantial conformance with the following sections.

11 § 2. Subdivision 1 of section 236 of the vehicle and traffic law, as
12 amended by chapter 222 of the laws of 2015, is amended to read as
13 follows:

14 1. Creation. In any city as hereinbefore or hereafter authorized such
15 tribunal when created shall be known as the parking violations bureau
16 and shall have jurisdiction of traffic infractions which constitute a
17 parking violation and, where authorized by local law adopted pursuant to
18 subdivision (a) of section eleven hundred eleven-a of this chapter or
19 subdivisions (a) of sections eleven hundred eleven-b of this chapter as
20 added by sections sixteen of chapters twenty, twenty-one, and twenty-two
21 of the laws of two thousand nine, or subdivision (a) of section eleven
22 hundred eleven-d of this chapter, or subdivision (a) of section eleven
23 hundred eleven-e of this chapter, shall adjudicate the liability of
24 owners for violations of subdivision (d) of section eleven hundred elev-
25 en of this chapter in accordance with such section eleven hundred
26 eleven-a, sections eleven hundred eleven-b as added by sections sixteen
27 of chapters twenty, twenty-one, and twenty-two of the laws of two thou-
28 sand nine, or section eleven hundred eleven-d or section eleven hundred
29 eleven-e and shall adjudicate the liability of owners for violations of
30 toll collection regulations as defined in and in accordance with the
31 provisions of section two thousand nine hundred eighty-five of the
32 public authorities law and sections sixteen-a, sixteen-b and sixteen-c
33 of chapter seven hundred seventy-four of the laws of nineteen hundred
34 fifty and shall adjudicate liability of owners in accordance with
35 section eleven hundred eleven-c of this chapter for violations of bus
36 lane restrictions as defined in such section and shall adjudicate the
37 liability of owners for violations of subdivision (b), (c), (d), (f) or
38 (g) of section eleven hundred eighty of this chapter in accordance with
39 section eleven hundred eighty-b of this chapter and shall adjudicate the
40 liability of owners for violations of subdivision (b), (c), (d), (f) or
41 (g) of section eleven hundred eighty of this chapter in accordance with
42 section eleven hundred eighty-d of this chapter. Such tribunal, except
43 in a city with a population of one million or more, shall also have
44 jurisdiction of abandoned vehicle violations. For the purposes of this
45 article, a parking violation is the violation of any law, rule or regu-
46 lation providing for or regulating the parking, stopping or standing of
47 a vehicle. In addition for purposes of this article, "commissioner"
48 shall mean and include the commissioner of traffic of the city or an
49 official possessing authority as such a commissioner.

50 § 3. Section 237 of the vehicle and traffic law is amended by adding a
51 new subdivision 16 to read as follows:

52 16. To adjudicate the liability of owners for violations of subdivi-
53 sion (b), (c), (d), (f) or (g) of section eleven hundred eighty of this
54 chapter in accordance with section eleven hundred eighty-d of this chap-
55 ter.

§ 4. Paragraph f of subdivision 1 of section 239 of the vehicle and traffic law, as amended by chapter 222 of the laws of 2015, is amended to read as follows:

f. "Notice of violation" means a notice of violation as defined in subdivision nine of section two hundred thirty-seven of this article, but shall not be deemed to include a notice of liability issued pursuant to authorization set forth in section eleven hundred eleven-a of this chapter, or sections eleven hundred eleven-b of this chapter as added by sections sixteen of chapters twenty, twenty-one, and twenty-two of the laws of two thousand nine, or section eleven hundred eleven-d of this chapter, or section eleven hundred eleven-e of this chapter, and shall not be deemed to include a notice of liability issued pursuant to section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty and shall not be deemed to include a notice of liability issued pursuant to section eleven hundred eleven-c of this chapter and shall not be deemed to include a notice of liability issued pursuant to section eleven hundred eighty-b of this chapter and shall not be deemed to include a notice of liability issued pursuant to section eleven hundred eighty-d of this chapter.

§ 5. Paragraphs a and g of subdivision 2 of section 240 of the vehicle and traffic law, as amended by chapter 222 of the laws of 2015, are amended to read as follows:

a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with sections eleven hundred eleven-b of this chapter as added by sections sixteen of chapters twenty, twenty-one, and twenty-two of the laws of two thousand nine or in accordance with section eleven hundred eleven-d of this chapter or in accordance with section eleven hundred eleven-e of this chapter or an allegation of liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or an allegation of liability in accordance with section eleven hundred eleven-c of this chapter or an allegation of liability in accordance with section eleven hundred eighty-b of this chapter, or an allegation of liability in accordance with section eleven hundred eighty-d of this chapter, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.

g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with section eleven hundred eleven-a of this chapter or in accordance with sections eleven hundred eleven-b of this chapter as added by sections sixteen of chapters twenty, twenty-one, and twenty-two of the laws of two thousand nine or in accordance with section eleven hundred eleven-d of this chapter is contested or in accordance with section eleven hundred eleven-e of this chapter is contested or of a hearing at which liability in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty is contested or of a hearing at which liability in accordance with section eleven hundred eleven-c of this chapter or a hearing at which liability in accordance with section eleven hundred eighty-b of this chapter or a hearing at which liability in accordance with section eleven hundred

1 eighty-d of this chapter is contested. Recording devices may be used for
2 the making of the record.

3 § 6. Subdivisions 1 and 2 of section 241 of the vehicle and traffic
4 law, as amended by chapter 222 of the laws of 2015, are amended to read
5 as follows:

6 1. The hearing examiner shall make a determination on the charges,
7 either sustaining or dismissing them. Where the hearing examiner deter-
8 mines that the charges have been sustained he or she may examine either
9 the prior parking violations record or the record of liabilities
10 incurred in accordance with section eleven hundred eleven-a of this
11 chapter or in accordance with sections eleven hundred eleven-b of this
12 chapter as added by sections sixteen of chapters twenty, twenty-one, and
13 twenty-two of the laws of two thousand nine or in accordance with
14 section eleven hundred eleven-d of this chapter or in accordance with
15 section eleven hundred eleven-e of this chapter or the record of liabil-
16 ities incurred in accordance with section two thousand nine hundred
17 eighty-five of the public authorities law or sections sixteen-a,
18 sixteen-b and sixteen-c of chapter seven hundred seventy-four of the
19 laws of nineteen hundred fifty of the person charged, or the record of
20 liabilities incurred in accordance with section eleven hundred eleven-c
21 of this chapter, or the record of liabilities incurred in accordance
22 with section eleven hundred eighty-b of this chapter, or in the record
23 of liabilities incurred in accordance with section eleven hundred eight-
24 y-d of this chapter, as applicable prior to rendering a final determi-
25 nation. Final determinations sustaining or dismissing charges shall be
26 entered on a final determination roll maintained by the bureau together
27 with records showing payment and nonpayment of penalties.

28 2. Where an operator or owner fails to enter a plea to a charge of a
29 parking violation or contest an allegation of liability in accordance
30 with section eleven hundred eleven-a of this chapter or in accordance
31 with sections eleven hundred eleven-b of this chapter as added by
32 sections sixteen of chapters twenty, twenty-one, and twenty-two of the
33 laws of two thousand nine or in accordance with section eleven hundred
34 eleven-d of this chapter or in accordance with section eleven hundred
35 eleven-e of this chapter or fails to contest an allegation of liability
36 in accordance with section two thousand nine hundred eighty-five of the
37 public authorities law or sections sixteen-a, sixteen-b and sixteen-c of
38 chapter seven hundred seventy-four of the laws of nineteen hundred
39 fifty, or fails to contest an allegation of liability in accordance with
40 section eleven hundred eleven-c of this chapter or fails to contest an
41 allegation of liability in accordance with section eleven hundred eight-
42 y-b of this chapter or fails to contest an allegation of liability in
43 accordance with section eleven hundred eighty-d of this chapter or fails
44 to appear on a designated hearing date or subsequent adjourned date or
45 fails after a hearing to comply with the determination of a hearing
46 examiner, as prescribed by this article or by rule or regulation of the
47 bureau, such failure to plead or contest, appear or comply shall be
48 deemed, for all purposes, an admission of liability and shall be grounds
49 for rendering and entering a default judgment in an amount provided by
50 the rules and regulations of the bureau. However, after the expiration
51 of the original date prescribed for entering a plea and before a default
52 judgment may be rendered, in such case the bureau shall pursuant to the
53 applicable provisions of law notify such operator or owner, by such form
54 of first class mail as the commission may direct; (1) of the violation
55 charged, or liability in accordance with section eleven hundred eleven-a
56 of this chapter or in accordance with sections eleven hundred eleven-b

1 of this chapter as added by sections sixteen of chapters twenty, twenty-one, and twenty-two of the laws of two thousand nine or in accordance
2 with section eleven hundred eleven-d of this chapter or in accordance
3 with section eleven hundred eleven-e of this chapter alleged or liability
4 in accordance with section two thousand nine hundred eighty-five of
5 the public authorities law or sections sixteen-a, sixteen-b and
6 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
7 hundred fifty alleged or liability in accordance with section eleven
8 hundred eleven-c of this chapter or liability in accordance with section
9 eleven hundred eighty-b of this chapter alleged, or liability in accordance with section eleven hundred eighty-d of this chapter alleged, (2)
10 of the impending default judgment, (3) that such judgment will be
11 entered in the Civil Court of the city in which the bureau has been
12 established, or other court of civil jurisdiction or any other place
13 provided for the entry of civil judgments within the state of New York,
14 and (4) that a default may be avoided by entering a plea or contesting
15 an allegation of liability in accordance with section eleven hundred
16 eleven-a of this chapter or in accordance with sections eleven hundred
17 eleven-b of this chapter as added by sections sixteen of chapters twenty,
18 twenty-one, and twenty-two of the laws of two thousand nine or in
19 accordance with section eleven hundred eleven-d of this chapter or in
20 accordance with section eleven hundred eleven-e of this chapter or
21 contesting an allegation of liability in accordance with section two
22 thousand nine hundred eighty-five of the public authorities law or
23 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
24 seventy-four of the laws of nineteen hundred fifty or contesting an
25 allegation of liability in accordance with section eleven hundred
26 eleven-c of this chapter or contesting an allegation of liability in
27 accordance with section eleven hundred eighty-b of this chapter or
28 contesting an allegation of liability in accordance with section eleven
29 hundred eighty-d of this chapter, as appropriate, or making an appearance
30 within thirty days of the sending of such notice. Pleas entered and
31 allegations contested within that period shall be in the manner
32 prescribed in the notice and not subject to additional penalty or fee.
33 Such notice of impending default judgment shall not be required prior to
34 the rendering and entry thereof in the case of operators or owners who
35 are non-residents of the state of New York. In no case shall a default
36 judgment be rendered or, where required, a notice of impending default
37 judgment be sent, more than two years after the expiration of the time
38 prescribed for entering a plea or contesting an allegation. When a
39 person has demanded a hearing, no fine or penalty shall be imposed for
40 any reason, prior to the holding of the hearing. If the hearing examiner
41 shall make a determination on the charges, sustaining them, he or she
42 shall impose no greater penalty or fine than those upon which the person
43 was originally charged.

44 § 7. The vehicle and traffic law is amended by adding a new section
45 1180-d to read as follows:

46 § 1180-d. Owner liability for failure of operator to comply with
47 certain posted maximum speed limits. (a) 1. Notwithstanding any other
48 provision of law, the city of Buffalo is hereby authorized to establish
49 a demonstration program imposing monetary liability on the owner of a
50 vehicle for failure of an operator thereof to comply with posted maximum
51 speed limits in a school speed zone within the city (i) when a school
52 speed limit is in effect as provided in paragraphs one and two of subdi-
53 vision (c) of section eleven hundred eighty of this article or (ii) when
54 other speed limits are in effect as provided in subdivision (b), (d),
55

1 (f) or (g) of section eleven hundred eighty of this article during the
2 following times: (A) on school days during school hours and one hour
3 before and one hour after the school day, and (B) a period during
4 student activities at the school and up to thirty minutes immediately
5 before and up to thirty minutes immediately after such student activ-
6 ities. Such demonstration program shall empower the city to install
7 photo speed violation monitoring systems within no more than twenty
8 school speed zones within the city at any one time and to operate such
9 systems within such zones (iii) when a school speed limit is in effect
10 as provided in paragraphs one and two of subdivision (c) of section
11 eleven hundred eighty of this article or (iv) when other speed limits
12 are in effect as provided in subdivision (b), (d), (f) or (g) of section
13 eleven hundred eighty of this article during the following times: (A) on
14 school days during school hours and one hour before and one hour after
15 the school day, and (B) a period during student activities at the school
16 and up to thirty minutes immediately before and up to thirty minutes
17 immediately after such student activities. In selecting a school speed
18 zone in which to install and operate a photo speed violation monitoring
19 system, the city shall consider criteria including, but not limited to
20 the speed data, crash history, and the roadway geometry applicable to
21 such school speed zone.

22 2. No photo speed violation monitoring system shall be used in a
23 school speed zone unless (i) on the day it is to be used it has success-
24 fully passed a self-test of its functions; and (ii) it has undergone an
25 annual calibration check performed pursuant to paragraph four of this
26 subdivision. The city shall install signs giving notice that a photo
27 speed violation monitoring system is in use to be mounted on advance
28 warning signs notifying motor vehicle operators of such upcoming school
29 speed zone and/or on speed limit signs applicable within such school
30 speed zone, in conformance with standards established in the MUTCD.

31 3. Operators of photo speed violation monitoring systems shall have
32 completed training in the procedures for setting up, testing, and oper-
33 ating such systems. Each such operator shall complete and sign a daily
34 set-up log for each such system that he or she operates that (i) states
35 the date and time when, and the location where, the system was set up
36 that day, and (ii) states that such operator successfully performed, and
37 the system passed, the self-tests of such system before producing a
38 recorded image that day. The city shall retain each such daily log
39 until the later of the date on which the photo speed violation monitor-
40 ing system to which it applies has been permanently removed from use or
41 the final resolution of all cases involving notices of liability issued
42 based on photographs, microphotographs, video or other recorded images
43 produced by such system.

44 4. Each photo speed violation monitoring system shall undergo an annu-
45 al calibration check performed by an independent calibration laboratory
46 which shall issue a signed certificate of calibration. The city shall
47 keep each such annual certificate of calibration on file until the final
48 resolution of all cases involving a notice of liability issued during
49 such year which were based on photographs, microphotographs, videotape
50 or other recorded images produced by such photo speed violation monitor-
51 ing system.

52 5. (i) Such demonstration program shall utilize necessary technologies
53 to ensure, to the extent practicable, that photographs, microphoto-
54 graphs, videotape or other recorded images produced by such photo speed
55 violation monitoring systems shall not include images that identify the
56 driver, the passengers, or the contents of the vehicle. Provided, howev-

er, that no notice of liability issued pursuant to this section shall be dismissed solely because such a photograph, microphotograph, videotape or other recorded image allows for the identification of the driver, the passengers, or the contents of vehicles where the city shows that it made reasonable efforts to comply with the provisions of this paragraph in such case.

(ii) Photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall be for the exclusive use of the city for the purpose of the adjudication of liability imposed pursuant to this section and of the owner receiving a notice of liability pursuant to this section, and shall be destroyed by the city upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images relate, or one year following the date of issuance of such notice of liability, whichever is later. Notwithstanding the provisions of any other law, rule or regulation to the contrary, photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of liability issued pursuant to this section, and no public entity or employee, officer or agent thereof shall disclose such information, except that such photographs, microphotographs, videotape or any other recorded images from such systems:

(A) shall be available for inspection and copying and use by the motor vehicle owner and operator for so long as such photographs, microphotographs, videotape or other recorded images are required to be maintained or are maintained by such public entity, employee, officer or agent; and

(B) (1) shall be furnished when described in a search warrant issued by a court authorized to issue such a search warrant pursuant to article six hundred ninety of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state, provided, however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony against the laws of this state; and

(2) shall be furnished in response to a subpoena duces tecum signed by a judge of competent jurisdiction and issued pursuant to article six hundred ten of the criminal procedure law or a judge or magistrate of a federal court authorized to issue such a subpoena duces tecum under federal law, where the judge finds and the subpoena states that there is reasonable cause to believe such information is relevant and material to the prosecution, or the defense, or the investigation by an authorized law enforcement official, of the alleged commission of a misdemeanor or felony in this state or another state, provided, however, that if such offense was against the laws of another state, such judge or magistrate shall only issue such subpoena if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony in this state; and

1 (3) may, if lawfully obtained pursuant to this clause and clause (A)
2 of this subparagraph and otherwise admissible, be used in such criminal
3 action or proceeding.

4 (b) If the city of Buffalo establishes a demonstration program pursu-
5 ant to subdivision (a) of this section, the owner of a vehicle shall be
6 liable for a penalty imposed pursuant to this section if such vehicle
7 was used or operated with the permission of the owner, express or
8 implied, within a school speed zone in violation of subdivision (c) or
9 during the times authorized pursuant to subdivision (a) of this section
10 in violation of subdivision (b), (d), (f) or (g) of section eleven
11 hundred eighty of this article, such vehicle was traveling at a speed of
12 more than ten miles per hour above the posted speed limit in effect
13 within such school speed zone, and such violation is evidenced by infor-
14 mation obtained from a photo speed violation monitoring system; provided
15 however that no owner of a vehicle shall be liable for a penalty imposed
16 pursuant to this section where the operator of such vehicle has been
17 convicted of the underlying violation of subdivision (b), (c), (d), (f)
18 or (g) of section eleven hundred eighty of this article.

19 (c) For purposes of this section, the following terms shall have the
20 following meanings:

21 1. "manual on uniform traffic control devices" or "MUTCD" shall mean
22 the manual and specifications for a uniform system of traffic control
23 devices maintained by the commissioner of transportation pursuant to
24 section sixteen hundred eighty of this chapter;

25 2. "owner" shall have the meaning provided in article two-B of this
26 chapter;

27 3. "photo speed violation monitoring system" shall mean a vehicle
28 sensor installed to work in conjunction with a speed measuring device
29 which automatically produces two or more photographs, two or more micro-
30 photographs, a videotape or other recorded images of each vehicle at the
31 time it is used or operated in a school speed zone in violation of
32 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty
33 of this article in accordance with the provisions of this section; and

34 4. "school speed zone" shall mean a distance not to exceed one thou-
35 sand three hundred twenty feet on a highway passing a school building,
36 entrance or exit of a school abutting on the highway.

37 (d) A certificate, sworn to or affirmed by a technician employed by
38 the city of Buffalo, or a facsimile thereof, based upon inspection of
39 photographs, microphotographs, videotape or other recorded images
40 produced by a photo speed violation monitoring system, shall be prima
41 facie evidence of the facts contained therein. Any photographs, micro-
42 photographs, videotape or other recorded images evidencing such a
43 violation shall include at least two date and time stamped images of the
44 rear of the motor vehicle that include the same stationary object near
45 the motor vehicle and shall be available for inspection reasonably in
46 advance of and at any proceeding to adjudicate the liability for such
47 violation pursuant to this section.

48 (e) An owner liable for a violation of subdivision (b), (c), (d), (f)
49 or (g) of section eleven hundred eighty of this article pursuant to a
50 demonstration program established pursuant to this section shall be
51 liable for monetary penalties in accordance with a schedule of fines and
52 penalties to be promulgated by the parking violations bureau of the city
53 of Buffalo. The liability of the owner pursuant to this section shall
54 not exceed fifty dollars for each violation; provided, however, that
55 such parking violations bureau may provide for an additional penalty not

1 in excess of twenty-five dollars for each violation for the failure to
2 respond to a notice of liability within the prescribed time period.

3 (f) An imposition of liability under the demonstration program estab-
4 lished pursuant to this section shall not be deemed a conviction as an
5 operator and shall not be made part of the operating record of the
6 person upon whom such liability is imposed nor shall it be used for
7 insurance purposes in the provision of motor vehicle insurance coverage.

8 (g) 1. A notice of liability shall be sent by first class mail to each
9 person alleged to be liable as an owner for a violation of subdivision
10 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this arti-
11 cle pursuant to this section, within fourteen business days if such
12 owner is a resident of this state and within forty-five business days if
13 such owner is a non-resident. Personal delivery on the owner shall not
14 be required. A manual or automatic record of mailing prepared in the
15 ordinary course of business shall be prima facie evidence of the facts
16 contained therein.

17 2. A notice of liability shall contain the name and address of the
18 person alleged to be liable as an owner for a violation of subdivision
19 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this arti-
20 cle pursuant to this section, the registration number of the vehicle
21 involved in such violation, the location where such violation took
22 place, the date and time of such violation, the identification number of
23 the camera which recorded the violation or other document locator
24 number, at least two date and time stamped images of the rear of the
25 motor vehicle that include the same stationary object near the motor
26 vehicle, and the certificate charging the liability.

27 3. The notice of liability shall contain information advising the
28 person charged of the manner and the time in which he or she may contest
29 the liability alleged in the notice. Such notice of liability shall also
30 contain a prominent warning to advise the person charged that failure to
31 contest in the manner and time provided shall be deemed an admission of
32 liability and that a default judgment may be entered thereon.

33 4. The notice of liability shall be prepared and mailed by the city of
34 Buffalo, or by any other entity authorized by the city to prepare and
35 mail such notice of liability.

36 (h) Adjudication of the liability imposed upon owners of this section
37 shall be by the city of Buffalo parking violations bureau.

38 (i) If an owner receives a notice of liability pursuant to this
39 section for any time period during which the vehicle or the number plate
40 or plates of such vehicle was reported to the police department as
41 having been stolen, it shall be a valid defense to an allegation of
42 liability for a violation of subdivision (b), (c), (d), (f) or (g) of
43 section eleven hundred eighty of this article pursuant to this section
44 that the vehicle or the number plate or plates of such vehicle had been
45 reported to the police as stolen prior to the time the violation
46 occurred and had not been recovered by such time. For purposes of
47 asserting the defense provided by this subdivision, it shall be suffi-
48 cient that a certified copy of the police report on the stolen vehicle
49 or number plate or plates of such vehicle be sent by first class mail to
50 the city of Buffalo parking violations bureau or by any other entity
51 authorized by the city to prepare and mail such notice of liability.

52 (j) Adjudication of the liability imposed upon owners of this section
53 shall be by the city of Buffalo parking violations bureau.

54 (k) 1. An owner who is a lessor of a vehicle to which a notice of
55 liability was issued pursuant to subdivision (g) of this section shall
56 not be liable for the violation of subdivision (b), (c), (d), (f) or (g)

1 of section eleven hundred eighty of this article pursuant to this
2 section, provided that:

3 (i) prior to the violation, the lessor has filed with such parking
4 violations bureau in accordance with the provisions of section two
5 hundred thirty-nine of this chapter; and

6 (ii) within thirty-seven days after receiving notice from such divi-
7 sion of the date and time of a liability, together with the other infor-
8 mation contained in the original notice of liability, the lessor submits
9 to such division the correct name and address of the lessee of the vehi-
10 cle identified in the notice of liability at the time of such violation,
11 together with such other additional information contained in the rental,
12 lease or other contract document, as may be reasonably required by such
13 division pursuant to regulations that may be promulgated for such
14 purpose.

15 2. Failure to comply with subparagraph (ii) of paragraph one of this
16 subdivision shall render the owner liable for the penalty prescribed in
17 this section.

18 3. Where the lessor complies with the provisions of paragraph one of
19 this subdivision, the lessee of such vehicle on the date of such
20 violation shall be deemed to be the owner of such vehicle for purposes
21 of this section, shall be subject to liability for such violation pursu-
22 ant to this section and shall be sent a notice of liability pursuant to
23 subdivision (i) of this section.

24 (l) 1. If the owner liable for a violation of subdivision (c) or (d)
25 of section eleven hundred eighty of this article pursuant to this
26 section was not the operator of the vehicle at the time of the
27 violation, the owner may maintain an action for indemnification against
28 the operator.

29 2. Notwithstanding any other provision of this section, no owner of a
30 vehicle shall be subject to a monetary fine imposed pursuant to this
31 section if the operator of such vehicle was operating such vehicle with-
32 out the consent of the owner at the time such operator operated such
33 vehicle in violation of subdivision (b), (c), (d), (f) or (g) of section
34 eleven hundred eighty of this article. For purposes of this subdivision
35 there shall be a presumption that the operator of such vehicle was oper-
36 ating such vehicle with the consent of the owner at the time of such
37 operator operated such vehicle in violation of subdivision (b), (c),
38 (d), (f) or (g) of section eleven hundred eighty of this article.

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

42 (n) If the city adopts a demonstration program pursuant to subdivision
43 (a) of this section it shall conduct a study and submit a report on the
44 results of the use of photo devices to the governor, the temporary pres-
45 ident of the senate and the speaker of the assembly. Such report shall
46 include:

47 1. the locations where and dates when photo speed violation monitoring
48 systems were used;

49 2. the aggregate number, type and severity of crashes, fatalities,
50 injuries and property damage reported within all school speed zones
51 within the city, to the extent the information is maintained by the
52 department of motor vehicles of this state;

53 3. the aggregate number, type and severity of crashes, fatalities,
54 injuries and property damage reported within school speed zones where
55 photo speed violation monitoring systems were used, to the extent the

1 information is maintained by the department of motor vehicles of this
2 state;

3 4. the number of violations recorded within all school speed zones
4 within the city, in the aggregate on a daily, weekly and monthly basis;

5 5. the number of violations recorded within each school speed zone
6 where a photo speed violation monitoring system is used, in the aggregate
7 on a daily, weekly and monthly basis;

8 6. the number of violations recorded within all school speed zones
9 within the city that were:

10 (i) more than ten but not more than twenty miles per hour over the
11 posted speed limit;

12 (ii) more than twenty but not more than thirty miles per hour over the
13 posted speed limit;

14 (iii) more than thirty but not more than forty miles per hour over the
15 posted speed limit; and

16 (iv) more than forty miles per hour over the posted speed limit;

17 7. the number of violations recorded within each school speed zone
18 where a photo speed violation monitoring system is used that were:

19 (i) more than ten but not more than twenty miles per hour over the
20 posted speed limit;

21 (ii) more than twenty but not more than thirty miles per hour over the
22 posted speed limit;

23 (iii) more than thirty but not more than forty miles per hour over the
24 posted speed limit; and

25 (iv) more than forty miles per hour over the posted speed limit;

26 8. the total number of notices of liability issued for violations
27 recorded by such systems;

28 9. the number of fines and total amount of fines paid after the first
29 notice of liability issued for violations recorded by such systems;

30 10. the number of violations adjudicated and the results of such adjudications
31 including breakdowns of dispositions made for violations
32 recorded by such systems;

33 11. the total amount of revenue realized by the city in connection
34 with the program;

35 12. the expenses incurred by the city in connection with the program;
36 and

37 13. the quality of the adjudication process and its results.

38 (o) It shall be a defense to any prosecution for a violation of subdivision
39 (b), (c), (d), (f) or (g) of section eleven hundred eighty of
40 this article pursuant to this section that such photo speed violation
41 monitoring system was malfunctioning at the time of the alleged
42 violation.

43 § 8. The opening paragraph and paragraph (c) of subdivision 1 of
44 section 1809 of the vehicle and traffic law, as amended by chapter 222
45 of the laws of 2015, are amended to read as follows:

46 Whenever proceedings in an administrative tribunal or a court of this
47 state result in a conviction for an offense under this chapter or a
48 traffic infraction under this chapter, or a local law, ordinance, rule
49 or regulation adopted pursuant to this chapter, other than a traffic
50 infraction involving standing, stopping, or parking or violations by
51 pedestrians or bicyclists, or other than an adjudication of liability of
52 an owner for a violation of subdivision (d) of section eleven hundred
53 eleven of this chapter in accordance with section eleven hundred
54 eleven-a of this chapter, or other than an adjudication of liability of
55 an owner for a violation of subdivision (d) of section eleven hundred
56 eleven of this chapter in accordance with section eleven hundred

eleven-b of this chapter, or other than an adjudication in accordance with section eleven hundred eleven-c of this chapter for a violation of a bus lane restriction as defined in such section, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-d of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-b of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-c of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-e of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-d of this chapter, there shall be levied a crime victim assistance fee and a mandatory surcharge, in addition to any sentence required or permitted by law, in accordance with the following schedule:

(c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-a of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-b of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-d of this chapter, or other than an infraction pursuant to article nine of this chapter or other than an adjudication of liability of an owner for a violation of toll collection regulations pursuant to section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty or other than an adjudication in accordance with section eleven hundred eleven-c of this chapter for a violation of a bus lane restriction as defined in such section, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-b of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance with section eleven hundred eighty-c of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter in accordance with section eleven hundred eleven-e of this chapter, or other than an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter in accordance

1 with section eleven hundred eighty-d of this chapter, there shall be
2 levied a crime victim assistance fee in the amount of five dollars and a
3 mandatory surcharge, in addition to any sentence required or permitted
4 by law, in the amount of fifty-five dollars.

5 § 9. Paragraph a of subdivision 1 of section 1809-e of the vehicle and
6 traffic law, as amended by chapter 222 of the laws of 2015, is amended
7 to read as follows:

8 a. Notwithstanding any other provision of law, whenever proceedings in
9 a court or an administrative tribunal of this state result in a
10 conviction for an offense under this chapter, except a conviction pursu-
11 ant to section eleven hundred ninety-two of this chapter, or for a traf-
12 fic infraction under this chapter, or a local law, ordinance, rule or
13 regulation adopted pursuant to this chapter, except a traffic infraction
14 involving standing, stopping, or parking or violations by pedestrians or
15 bicyclists, and except an adjudication of liability of an owner for a
16 violation of subdivision (d) of section eleven hundred eleven of this
17 chapter in accordance with section eleven hundred eleven-a of this chap-
18 ter or in accordance with section eleven hundred eleven-d of this chap-
19 ter, or in accordance with section eleven hundred eleven-e of this chap-
20 ter, and except an adjudication of liability of an owner for a violation
21 of subdivision (d) of section eleven hundred eleven of this chapter in
22 accordance with section eleven hundred eleven-b of this chapter, and
23 except an adjudication in accordance with section eleven hundred
24 eleven-c of this chapter of a violation of a bus lane restriction as
25 defined in such section, and except an adjudication of liability of an
26 owner for a violation of subdivision (b), (c), (d), (f) or (g) of
27 section eleven hundred eighty of this chapter in accordance with section
28 eleven hundred eighty-b of this chapter, and except an adjudication of
29 liability of an owner for a violation of subdivision (b), (c), (d), (f)
30 or (g) of section eleven hundred eighty of this chapter in accordance
31 with section eleven hundred eighty-c of this chapter, and except an
32 adjudication of liability of an owner for a violation of toll collection
33 regulations pursuant to section two thousand nine hundred eighty-five of
34 the public authorities law or sections sixteen-a, sixteen-b and
35 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
36 hundred fifty, or other than an adjudication of liability of an owner
37 for a violation of subdivision (b), (c), (d), (f) or (g) of section
38 eleven hundred eighty of this chapter in accordance with section eleven
39 hundred eighty-d of this chapter, there shall be levied in addition to
40 any sentence, penalty or other surcharge required or permitted by law,
41 an additional surcharge of twenty-eight dollars.

42 § 10. Subdivision 2 of section 87 of the public officers law is
43 amended by adding a new paragraph (p) to read as follows:

44 (p) are photographs, microphotographs, videotape or other recorded
45 images prepared under the authority of section eleven hundred eighty-d
46 of the vehicle and traffic law.

47 § 11. The purchase or lease of equipment for a demonstration program
48 pursuant to section 1180-d of the vehicle and traffic law shall be
49 subject to the provisions of section 103 of the general municipal law.

50 § 12. This act shall take effect on the thirtieth day after it shall
51 have become a law and shall expire 5 years after such effective date
52 when upon such date the provisions of this act shall be deemed repealed;
53 and provided further that any rules necessary for the implementation of
54 this act on its effective date shall be promulgated on or before such
55 effective date, provided that:

1 (a) the amendments to subdivision 1 of section 235 of the vehicle and
2 traffic law made by section one of this act shall not affect the expira-
3 tion of such section and shall be deemed to expire therewith;

4 (b) the amendments to subdivision 1 of section 236 of the vehicle and
5 traffic law made by section two of this act shall not affect the expira-
6 tion of such subdivision and shall be deemed to expire therewith;

7 (c) the amendments to paragraph f of subdivision 1 of section 239 of
8 the vehicle and traffic law made by section four of this act shall not
9 affect the expiration of such paragraph and shall be deemed to expire
10 therewith;

11 (d) the amendments to paragraphs a and g of subdivision 2 of section
12 240 of the vehicle and traffic law made by section five of this act
13 shall not affect the expiration of such paragraphs and shall be deemed
14 to expire therewith;

15 (e) the amendments to subdivisions 1 and 2 of section 241 of the vehi-
16 cle and traffic law made by section six of this act shall not affect the
17 expiration of such subdivisions and shall be deemed to expire therewith;

18 (f) the amendments to subdivision 1 of section 1809 of the vehicle and
19 traffic law made by section eight of this act shall not affect the expi-
20 ration of such subdivision and shall be deemed to expire therewith; and

21 (g) the amendments to paragraph a of subdivision 1 of section 1809-e
22 of the vehicle and traffic law made by section nine of this act shall
23 not affect the expiration of such paragraph and shall be deemed to
24 expire therewith.