

# STATE OF NEW YORK

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8827--A

Cal. No. 1446

## IN SENATE

May 23, 2018

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Introduced by Sen. FELDER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the administrative code of the city of New York, in relation to school safety measures in the city of New York (Part A); to amend the education law, in relation to establishing active shooter drills at public and private educational institutions (Part B); to amend the vehicle and traffic law, in relation to photo speed violation monitoring systems in school speed zones in the city of New York; to amend chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, in relation to making technical corrections thereto; and to amend chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million or more a demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices, in relation to the effectiveness thereof (Part C); and to amend the public authorities law, the vehicle and traffic law and the public officers law, in relation to establishing a temporary high-occupancy vehicle program on the Williamsburg bridge by means of mobile or stationary photo devices; and providing for the repeal of certain provisions upon expiration thereof (Part D)

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

1 Section 1. This act enacts into law components of legislation relating  
2 to school safety. Each component is wholly contained within a Part identified as Parts A through D. The effective date for each particular  
3 provision contained within such Part is set forth in the last section of  
4 such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section  
5  
6

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

LBD15269-06-8

"of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

## PART A

Section 1. The administrative code of the city of New York is amended by adding a new section 10-179 to read as follows:

§ 10-179 School safety measures. The police commissioner of the city shall assign a police officer at least one hour prior to the commencement of instructional hours at every public school within the city of New York. Such police officer shall remain on site to secure the perimeter and exterior of such school during instructional hours and for a minimum one hour post instructional hours unless, in the discretion of the mayor of the city or the police commissioner of the city, a state of emergency exists requiring redeployment of a police officer during the required hours set forth in this section. Any individual school, upon recommendation of the principal and the parents' association or parent-teachers' association and with the approval of the police commissioner, may decline the assignment of a police officer as required by this section, by a two-thirds vote of the community district education council, as defined in section twenty-five hundred ninety-a of the education law, within which such school is located.

§ 2. This act shall take effect immediately.

## PART B

Section 1. Subdivision 1 of section 807 of the education law, as amended by section 2 of part B of chapter 54 of the laws of 2016, is amended to read as follows:

1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, other than colleges or universities, to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to respond appropriately in the shortest possible time and without confusion or panic. Such drills shall be held at least twelve times in each school year, eight of which required drills shall be held between September first and December thirty-first of each such year. Eight of all such drills shall be evacuation drills, four of which shall be through use of the fire escapes on buildings where fire escapes are provided or through the use of identified secondary means of egress. Four of all such required drills shall be emergency attack drills, with two of such drills being lock-down drills and two of such drills being active shooter drills. Upon request of the principal or other person in charge of such public or private educational institution, the New York state school safety improvement teams, established pursuant to section twenty-eight hundred one-b of this chapter, shall provide recommendations on how to perform such lock-down and active shooter drills at such public or private educational institution. Drills shall be conducted at different times of the school day. Pupils shall be instructed in the procedure to be followed in the event that a fire occurs during the lunch period or assembly, provided however, that such additional instruction may be waived where a drill is held during the regular school lunch period or assembly. Four additional drills shall be held in each school year during the hours after sunset and before sunrise in

1 school buildings in which students are provided with sleeping accommo-  
2 dations. At least two additional drills shall be held during summer  
3 school in buildings where summer school is conducted, and one of such  
4 drills shall be held during the first week of summer school.

5 § 2. This act shall take effect immediately.

6 PART C

7 Section 1. Paragraph 1 of subdivision (a) of section 1180-b of the  
8 vehicle and traffic law, as amended by chapter 43 of the laws of 2014,  
9 is amended to read as follows:

10 1. Notwithstanding any other provision of law, the city of New York is  
11 hereby authorized to establish a demonstration program imposing monetary  
12 liability on the owner of a vehicle for failure of an operator thereof  
13 to comply with posted maximum speed limits in a school speed zone within  
14 ~~the~~ such city (i) when a school speed limit is in effect as provided  
15 in paragraphs one and two of subdivision (c) of section eleven hundred  
16 eighty of this article or (ii) when other speed limits are in effect as  
17 provided in subdivision (b), (d), (f) or (g) of section eleven hundred  
18 eighty of this article during the following times: (A) on school days  
19 during school hours and one hour before and one hour after the school  
20 day, and (B) a period during student activities at the school and up to  
21 thirty minutes immediately before and up to thirty minutes immediately  
22 after such student activities. Such demonstration program shall empower  
23 the city of New York to install photo speed violation monitoring systems  
24 within no more than one hundred forty school speed zones within ~~the~~  
25 such city at any one time and to operate such systems within such zones  
26 (iii) when a school speed limit is in effect as provided in paragraphs  
27 one and two of subdivision (c) of section eleven hundred eighty of this  
28 article or (iv) when other speed limits are in effect as provided in  
29 subdivision (b), (d), (f) or (g) of section eleven hundred eighty of  
30 this article during the following times: (A) on school days during  
31 school hours and one hour before and one hour after the school day, and  
32 (B) a period during student activities at the school and up to thirty  
33 minutes immediately before and up to thirty minutes immediately after  
34 such student activities. In selecting a school speed zone in which to  
35 install and operate a photo speed violation monitoring system, the city  
36 of New York shall consider criteria including, but not limited to, the  
37 speed data, crash history, and the roadway geometry applicable to such  
38 school speed zone. Such city shall prioritize the placement of photo  
39 speed violation monitoring systems in school speed zones based upon  
40 speed data or the crash history of a school speed zone. A photo speed  
41 violation monitoring system shall not be installed or operated on a  
42 controlled-access highway exit ramp or within three hundred feet along a  
43 highway that continues from the end of a controlled-access highway exit  
44 ramp.

45 § 2. Paragraph 2 of subdivision (a) of section 1180-b of the vehicle  
46 and traffic law, as added by chapter 189 of the laws of 2013, is amended  
47 to read as follows:

48 2. No photo speed violation monitoring system shall be used in a  
49 school speed zone unless (i) on the day it is to be used it has success-  
50 fully passed a self-test of its functions; and (ii) it has undergone an  
51 annual calibration check performed pursuant to paragraph four of this  
52 subdivision. The city ~~may~~ shall install signs giving notice that a  
53 photo speed violation monitoring system is in use to be mounted on  
54 advance warning signs notifying approaching motor vehicle operators of

1 such upcoming school speed zone and/or on speed limit signs applicable  
2 within such school speed zone, in conformance with standards established  
3 in the MUTCD. Such advance warning signs shall also, to the extent  
4 authorized by the MUTCD, contain the words "speed camera ahead" and be  
5 no more than three hundred feet from such photo speed violation monitor-  
6 ing system.

7 § 3. Subdivision (n) of section 1180-b of the vehicle and traffic law,  
8 as added by chapter 189 of the laws of 2013, is amended to read as  
9 follows:

10 (n) If the city adopts a demonstration program pursuant to subdivision  
11 ~~[one]~~ (a) of this section it shall conduct a study and submit ~~[a]~~ an  
12 annual report on the results of the use of photo devices to the gover-  
13 nor, the temporary president of the senate and the speaker of the assem-  
14 bly on or before June first, two thousand nineteen and on the same date  
15 in each succeeding year in which the demonstration program is operable.

16 Such report shall include:

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

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

23 3. the aggregate number, type and severity of crashes, fatalities,  
24 injuries and property damage reported within school speed zones where  
25 photo speed violation monitoring systems were used, to the extent the  
26 information is maintained by the department of motor vehicles of this  
27 state;

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

30 5. the number of violations recorded within each school speed zone  
31 where a photo speed violation monitoring system is used, in the aggre-  
32 gate on a daily, weekly and monthly basis;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. the expenses incurred by the city in connection with the program; ~~[and]~~

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

14. the effectiveness and adequacy of the hours of operation for such program to determine the impact on speeding violations and prevention of crashes.

§ 4. The opening paragraph of section 12 of chapter 43 of the laws of 2014, amending the vehicle and traffic law, the public officers law and the general municipal law relating to photo speed violation monitoring systems in school speed zones in the city of New York, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law ~~[and]; provided that sections one through ten of this act shall expire 4 years after such effective date when upon such date the provisions of such sections of this act shall be deemed repealed; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:~~

§ 5. The opening paragraph of section 15 of chapter 189 of the laws of 2013, amending the vehicle and traffic law and the public officers law relating to establishing in a city with a population of one million or more a demonstration program implementing speed violation monitoring systems in school speed zones by means of photo devices, is amended to read as follows:

This act shall take effect on the thirtieth day after it shall have become a law and shall expire ~~[5 years after such effective date when upon such date the provisions of this act shall]~~ and be deemed repealed July 1, 2020; and provided further that any rules necessary for the implementation of this act on its effective date shall be promulgated on or before such effective date, provided that:

§ 6. This act shall take effect immediately; provided that the amendments to section 1180-b of the vehicle and traffic law made by sections one, two and three of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further that the amendments to paragraph 2 of subdivision (a) of section 1180-b of the vehicle and traffic law made by section two of this act shall take effect on the ninetieth day after this act shall have become a law.

#### PART D

Section 1. Section 1268 of the public authorities law is amended by adding a new subdivision 4 to read as follows:

4. The authority and the New York city transit authority or any of its subsidiary corporations shall consult with and assist the city of New York in implementing a temporary high-occupancy vehicle (HOV) program on the Williamsburg bridge pursuant to section eleven hundred eleven-f of the vehicle and traffic law.

§ 2. The vehicle and traffic law is amended by adding a new section 235-a to read as follows:

§ 235-a. Jurisdiction; Williamsburg bridge temporary high-occupancy vehicle program. Notwithstanding any inconsistent provisions of any

1 general, special or local law or administrative code to the contrary, in  
2 any city of a million or more which heretofore or hereafter is author-  
3 ized to establish a parking violations bureau having jurisdiction to  
4 hear and determine complaints of traffic infractions constituting park-  
5 ing, standing or stopping violations in accordance with section two  
6 hundred thirty-six of this article, such tribunal shall be authorized to  
7 adjudicate the liability of owners for violations of subdivision (f) of  
8 section eleven hundred ten and section eleven hundred eleven-f of this  
9 chapter for violations of the temporary high-occupancy vehicle (HOV)  
10 program as defined in such section eleven hundred eleven-f, and such  
11 tribunal and the rules and regulations pertaining thereto shall be  
12 constituted in substantial conformance with the following sections.

13 § 3. Section 236 of the vehicle and traffic law is amended by adding a  
14 new subdivision 1-a to read as follows:

15 1-a. Creation. In any city of a million or more as hereinbefore or  
16 hereafter authorized such tribunal when created shall be known as the  
17 parking violations bureau and shall have jurisdiction of traffic infrac-  
18 tions which constitute a parking violation and shall adjudicate liabil-  
19 ity of owners in accordance with subdivision (f) of section eleven  
20 hundred ten and section eleven hundred eleven-f of this chapter for  
21 violations of the temporary high-occupancy vehicle (HOV) program as  
22 defined in such section eleven hundred eleven-f. For the purposes of  
23 this article, a parking violation is the violation of any law, rule or  
24 regulation providing for or regulating the parking, stopping or standing  
25 of a vehicle. In addition for purposes of this article, "commissioner"  
26 shall mean and include the commissioner of traffic of the city or an  
27 official possessing authority as such a commissioner.

28 § 4. Section 237 of the vehicle and traffic law is amended by adding a  
29 new subdivision 16 to read as follows:

30 16. To adjudicate the liability of owners for violations of subdivi-  
31 sion (f) of section eleven hundred ten and section eleven hundred  
32 eleven-f of this chapter.

33 § 5. Subdivision 1 of section 239 of the vehicle and traffic law is  
34 amended by adding a new paragraph f-1 to read as follows:

35 f-1. "Notice of violation" means a notice of violation as defined in  
36 subdivision nine of section two hundred thirty-seven of this article and  
37 shall not be deemed to include a notice of liability issued pursuant to  
38 authorization set forth in subdivision (f) of section eleven hundred ten  
39 and section eleven hundred eleven-f of this chapter.

40 § 6. Section 240 of the vehicle and traffic law is amended by adding  
41 three new subdivisions 1-b, 1-c and 2-a to read as follows:

42 1-b. Notice of hearing. Whenever a person alleged to be liable in  
43 accordance with the provisions of subdivision (f) of section eleven  
44 hundred ten and section eleven hundred eleven-f of this chapter enters a  
45 plea of not guilty or contests such an allegation, the bureau shall  
46 advise such person personally by such form of first class mail as the  
47 director may direct of the date on which he or she must appear to answer  
48 the charge at a hearing. The form and content of such notice of hearing  
49 shall be prescribed by the director, and shall contain a warning to  
50 advise the person so pleading or contesting that failure to appear on  
51 the date designated, or on any subsequent adjourned date, shall be  
52 deemed an admission of liability, and that a default judgment may be  
53 entered thereon.

54 1-c. Fines and penalties. Whenever a plea of not guilty has been  
55 entered, or the bureau has been notified that an allegation of liability  
56 in accordance with subdivision (f) of section eleven hundred ten and



1 section eleven hundred eleven-f of this chapter is being contested, by a  
2 person in a timely fashion and a hearing on the merits has been  
3 demand, but has not yet been held, the bureau shall not issue any  
4 notice of fine or penalty to that person prior to the date of the hear-  
5 ing.

6 2-a. Conduct of hearings. a. Every hearing for an adjudication of an  
7 allegation of liability in accordance with subdivision (f) of section  
8 eleven hundred ten and section eleven hundred eleven-f of this chapter  
9 shall be held before a hearing examiner in accordance with rules and  
10 regulations promulgated by the bureau.

11 b. No charge may be established except upon proof by substantial  
12 evidence.

13 c. The hearing examiner shall not be bound by the rules of evidence in  
14 the conduct of the hearing, except rules relating to privileged communi-  
15 cations.

16 d. The hearing examiner shall at the request of the person charged on  
17 a showing of good cause and need therefor, or in his or her own  
18 discretion, issue a subpoena to compel the appearance at a hearing of  
19 the officer who served the notice of violation or of other persons to  
20 give testimony, and may issue a subpoena duces tecum to compel the  
21 production for examination or introduction into evidence, of any book,  
22 paper or other thing relevant to the charges.

23 e. In the case of a refusal to obey a subpoena, the bureau may make  
24 application to the Supreme Court pursuant to section twenty-three  
25 hundred eight of the civil practice law and rules, for an order requir-  
26 ing such appearance, testimony or production of evidence.

27 f. The hearing examiner shall not examine the prior violation record  
28 of a person charged before making a determination.

29 g. A record shall be made of a hearing on a plea of not guilty or of a  
30 hearing at which liability in accordance with subdivision (f) of section  
31 eleven hundred ten and section eleven hundred eleven-f of this chapter  
32 is contested. Recording devices may be used for the making of the  
33 record.

34 § 7. Section 241 of the vehicle and traffic law is amended by adding  
35 two new subdivisions 1-a and 2-a to read as follows:

36 1-a. The hearing examiner shall make a determination on the charges,  
37 either sustaining or dismissing them. Where the hearing examiner deter-  
38 mines that the charges have been sustained he or she may examine either  
39 the prior parking violations record or the record of liabilities  
40 incurred in accordance with enforcement of subdivision (f) of section  
41 eleven hundred ten and section eleven hundred eleven-f of this chapter  
42 of the person charged prior to rendering a final determination. Final  
43 determinations sustaining or dismissing charges shall be entered on a  
44 final determination roll maintained by the bureau together with records  
45 showing payment and nonpayment of penalties.

46 2-a. Where an operator or owner fails to enter a plea to or contest an  
47 allegation of liability in accordance with subdivision (f) of section  
48 eleven hundred ten and section eleven hundred eleven-f of this chapter  
49 or fails to appear on a designated hearing date or subsequent adjourned  
50 date or fails after a hearing to comply with the determination of a  
51 hearing examiner, as prescribed by this article or by rule or regulation  
52 of the bureau, such failure to plead, appear or comply shall be deemed,  
53 for all purposes, an admission of liability and shall be grounds for  
54 rendering and entering a default judgment in an amount provided by the  
55 rules and regulations of the bureau. However, after the expiration of  
56 the original date prescribed for entering a plea and before a default

1 judgment may be rendered, in such case the bureau shall pursuant to the  
2 applicable provisions of law notify such operator or owner, by such form  
3 of first class mail as the commission may direct: (1) of the violation  
4 charged or liability in accordance with subdivision (f) of section elev-  
5 en hundred ten and section eleven hundred eleven-f of this chapter  
6 alleged, (2) of the impending default judgment, (3) that such judgment  
7 will be entered in the Civil Court of the city in which the bureau has  
8 been established, or other court of civil jurisdiction or any other  
9 place provided for the entry of civil judgments within the state of New  
10 York, and (4) that a default may be avoided by entering a plea or  
11 contesting an allegation of liability in accordance with section eleven  
12 hundred eleven-f of this chapter or making an appearance within thirty  
13 days of the sending of such notice. Pleas entered within that period  
14 shall be in the manner prescribed in the notice and not subject to addi-  
15 tional penalty or fee. Such notice of impending default judgment shall  
16 not be required prior to the rendering and entry thereof in the case of  
17 operators or owners who are non-residents of the state of New York. In  
18 no case shall a default judgment be rendered or, where required, a  
19 notice of impending default judgment be sent, more than two years after  
20 the expiration of the time prescribed for entering a plea. When a person  
21 has demanded a hearing, no fine or penalty shall be imposed for any  
22 reason prior to the holding of the hearing. If the hearing examiner  
23 shall make a determination on the charges, sustaining them, he or she  
24 shall impose no greater penalty or fine than those upon which the person  
25 was originally charged.

26 § 8. Subdivision 5-a of section 401 of the vehicle and traffic law is  
27 amended by adding a new paragraph a-1 to read as follows:

28 a-1. If at the time of application for a registration or renewal ther-  
29 eof there is a certification from a court or administrative tribunal of  
30 appropriate jurisdiction that the registrant or his or her represen-  
31 tative failed to appear on the return date or any subsequent adjourned  
32 date or failed to comply with the rules and regulations of an adminis-  
33 trative tribunal following entry of a final decision in response to a  
34 total of three or more summonses or other process in the aggregate,  
35 issued within an eighteen-month period, charging that the registrant was  
36 liable in accordance with subdivision (f) of section eleven hundred ten  
37 and section eleven hundred eleven-f of this chapter for a violation of  
38 the temporary high-occupancy vehicle (HOV) program as defined in such  
39 section eleven hundred eleven-f, the commissioner or his or her agent  
40 shall deny the registration or renewal application until the applicant  
41 provides proof from the court or administrative tribunal wherein the  
42 charges are pending that an appearance or answer has been made or in the  
43 case of an administrative tribunal that he or she has complied with the  
44 rules and regulations of said tribunal following entry of a final deci-  
45 sion. Where an application is denied pursuant to this section, the  
46 commissioner may, in his or her discretion, deny a registration or  
47 renewal application to any other person for the same vehicle and may  
48 deny a registration or renewal application for any other motor vehicle  
49 registered in the name of the applicant where the commissioner has  
50 determined that such registrant's intent has been to evade the purposes  
51 of this subdivision and where the commissioner has reasonable grounds to  
52 believe that such registration or renewal will have the effect defeating  
53 the purposes of this subdivision. Such denial shall only remain in  
54 effect as long as the summonses remain unanswered, or in the case of an  
55 administrative tribunal, the registrant fails to comply with the rules  
56 and regulations following entry of a final decision.



§ 9. Section 1110 of the vehicle and traffic law is amended by adding a new subdivision (f) to read as follows:

(f) Every person shall obey the instructions of any official traffic-control device placed to delineate high-occupancy vehicle lane restrictions pursuant to section eleven hundred eleven-f of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

§ 10. The vehicle and traffic law is amended by adding a new section 1111-f to read as follows:

§ 1111-f. Owner liability for failure of operator to comply with temporary high-occupancy vehicle program restrictions. (a) 1. Notwithstanding any other provision of law, the city of New York in consultation with the metropolitan transportation authority is hereby authorized and empowered to establish a temporary high-occupancy vehicle (HOV) program on the Williamsburg bridge. Such program will impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with HOV restrictions in such city in accordance with the provisions of this section. The New York city department of transportation, for purposes of the implementation of such program, shall operate HOV photo devices only within designated HOV areas on the Williamsburg bridge in such city. Such HOV photo devices shall be stationary and shall be activated at locations determined by such department.

2. Any image produced by an HOV photo device shall not be used for any purpose other than as specified in this section in the absence of a court order requiring such image to be produced.

3. The city of New York shall adopt and enforce measures to protect the privacy of drivers, passengers, pedestrians and cyclists whose identity and identifying information may be captured by an HOV photo device, provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because an image produced by an HOV photo device allows for the identification of the driver, the passengers, or the contents of a vehicle. Such protective measures shall include:

(i) a prohibition on the use or dissemination of vehicles' license plate information and other information and images captured by HOV photo devices except: (A) as required to establish liability under this section or collect payment of penalties; (B) as required by court order; (C) as required pursuant to a search warrant issued in accordance with the criminal procedure law or a subpoena; or (D) as otherwise required by law;

(ii) the installation of signage in advance of entry points to designated HOV areas stating that HOV photo devices are used to enforce HOV restrictions; and

(iii) oversight procedures to ensure compliance with the aforementioned privacy protection measures.

4. Within the city of New York, such HOV photo devices used in accordance with the temporary HOV program shall only be operated within designated HOV areas on the Williamsburg bridge during periods to be determined by the New York city department of transportation in consultation with the metropolitan transportation authority in order to facilitate traffic management. Determination of such periods shall be made based on factors that include, but are not limited to, empirical traffic analyses conducted by such department, input from the public, and guidance from appropriate government entities regarding mitigation strategies.

(b) If the city of New York has established a temporary HOV program pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of any HOV restrictions that apply, and such violation is evidenced by information obtained from a HOV photo device; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of any HOV restrictions.

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

1. "Owner" shall have the meaning provided in article two-B of this chapter.

2. "High-occupancy vehicle" or "HOV" shall mean vehicles with three or more occupants.

3. "HOV photo device" shall mean a device that is capable of operating independently of an enforcement officer and produces one or more images of each vehicle at the time it is in violation of HOV restrictions.

4. "HOV restrictions" shall mean restrictions, within the temporary HOV program, on the use of designated areas of the Williamsburg bridge, during time periods to be defined by the New York city department of transportation, by a vehicle other than: (i) an HOV; (ii) a vehicle registered as a commercial vehicle pursuant to part one hundred six of title fifteen of the New York codes, rules and regulations; (iii) an authorized emergency vehicle; (iv) an access-a-ride vehicle as defined in chapter five of title thirty-four of the rules of the city of New York; or (v) a bus.

5. "Temporary HOV program" shall mean a temporary program that operates exclusively within designated HOV areas on the Williamsburg bridge during periods of high-traffic volume to be determined by the New York city department of transportation. Determination of such periods shall be made based on factors that include, but are not limited to, empirical traffic analyses conducted by such department, input from the public, and guidance from appropriate government entities regarding mitigation strategies.

(d) A certificate, sworn to or affirmed by a technician employed by the city of New York, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by an HOV photo device, shall be prima facie evidence of the facts contained therein. Subject to paragraph three of subdivision (g) of this section, any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of an HOV restriction imposed on the Williamsburg bridge in accordance with the temporary HOV program shall be liable for monetary penalties in accordance with a schedule of fines and penalties promulgated by the parking violations bureau of the city of New York; provided, however, that the monetary penalty for violating an HOV restriction shall not exceed thirty-five dollars; provided, further, than an owner shall be liable for an additional penalty not to exceed twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period. All monetary penalties imposed by this section shall, within the first ten days of the month next succeeding the collection of such penalties, be paid by the collecting authority to the state comptroller

1 to be deposited in the outer borough transportation account of the New  
2 York city transportation assistance fund established by paragraph (ii)  
3 of subdivision 1 of section twelve hundred seventy-I of the public  
4 authorities law.

5 (f) An imposition of liability pursuant to this section shall not be  
6 deemed a conviction of an operator and shall not be made part of the  
7 operating record of the person upon whom such liability is imposed, nor  
8 shall it be used for insurance purposes in the provision of motor vehi-  
9 cle insurance coverage.

10 (g) 1. A notice of liability shall be sent by first class mail to each  
11 person alleged to be liable as an owner for a violation of the temporary  
12 HOV program. Personal delivery to the owner shall not be required. A  
13 manual or automatic record of mailing prepared in the ordinary course of  
14 business shall be prima facie evidence of the facts contained therein.

15 2. A notice of liability shall contain the name and address of the  
16 person alleged to be liable as an owner for a violation of the temporary  
17 HOV program, the registration number of the vehicle involved in such  
18 violation, the location where such violation took place, one or more  
19 images identifying the violation, the date and time of such violation  
20 and the identification number of the HOV photo device which recorded the  
21 violation or other document locator number.

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

28 4. The notice of liability shall be prepared and mailed by the agency  
29 or agencies designated by the city of New York, or any other entity  
30 authorized by such city to prepare and mail such notification of  
31 violation.

32 5. Adjudication of the liability imposed upon owners by this section  
33 shall be by the New York city parking violations bureau.

34 (h) If an owner of a vehicle receives a notice of liability pursuant  
35 to this section for any time period during which such vehicle was  
36 reported to the police department as having been stolen, it shall be a  
37 valid defense to an allegation of liability for a violation of the  
38 temporary HOV program that the vehicle had been reported to the police  
39 as stolen prior to the time the violation occurred and had not been  
40 recovered by such time. For purposes of asserting the defense provided  
41 by this subdivision it shall be sufficient that a certified copy of the  
42 police report on the stolen vehicle be sent by first class mail to the  
43 parking violations bureau of such city.

44 (i) 1. An owner who is a lessor of a vehicle to which a notice of  
45 liability was issued pursuant to subdivision (g) of this section shall  
46 not be liable for the violation of the temporary HOV program, provided  
47 that:

48 (i) prior to the violation, the lessor has filed with such parking  
49 violations bureau in accordance with the provisions of paragraph f-one  
50 of subdivision one of section two hundred thirty-nine of this chapter;  
51 and

52 (ii) within thirty-seven days after receiving notice from such bureau  
53 of the date and time of a liability, together with the other information  
54 contained in the original notice of liability, the lessor submits to  
55 such bureau the correct name and address of the lessee of the vehicle  
56 identified in the notice of liability at the time of such violation,

1 together with such other additional information contained in the rental,  
2 lease or other contract document, as may be reasonably required by such  
3 bureau pursuant to regulations that may be promulgated for such purpose.

4 2. Failure to comply with subparagraph (ii) of paragraph one of this  
5 subdivision shall render the lessor liable for the penalty prescribed in  
6 this section.

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

13 (j) If the owner liable for a violation of the temporary HOV program  
14 was not the operator of the vehicle at the time of the violation, the  
15 owner may maintain an action for indemnification against the operator.

16 (k) Nothing in this section shall be construed to limit the liability  
17 of an operator of a vehicle for any violation of HOV restrictions.

18 (l) On and after the date of restoration of regular subway passenger  
19 service in the Canarsie tunnel, the city of New York shall not be  
20 authorized or empowered to establish or continue a temporary HOV program  
21 on the Williamsburg bridge pursuant to paragraph one of subdivision (a)  
22 of this section; provided that any violations issued prior to such date  
23 may be adjudicated after such date. On and after the date of restoration  
24 of regular subway passenger service in the Canarsie tunnel, the New York  
25 city department of transportation shall not be authorized to operate HOV  
26 photo devices pursuant to paragraph one of subdivision (a) of this  
27 section; provided that any violations issued prior to such date may be  
28 adjudicated after such date.

29 § 11. Section 1809-e of the vehicle traffic law is amended by adding a  
30 new subdivision 4 to read as follows:

31 4. The provisions of this section authorizing the imposition of a  
32 surcharge shall not apply to adjudications conducted in accordance with  
33 section eleven hundred eleven-f of this chapter.

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

36 (p) are photographs, microphotographs, videotape or other recorded  
37 images prepared under authority of section eleven hundred eleven-f of  
38 the vehicle and traffic law.

39 § 13. The New York city department of transportation shall: (i) prior  
40 to implementing a temporary high-occupancy vehicle (HOV) program on the  
41 Williamsburg bridge as authorized by section 1111-f of the vehicle and  
42 traffic law, as added by section ten of this act, and in consultation  
43 with the metropolitan transportation authority, in accordance with  
44 subdivision 4 of section 1268 of the public authorities law, as added by  
45 section one of this act, communicate to the public, including the  
46 affected communities in New York and Kings counties, the plan for HOV  
47 restrictions so as to maximize awareness of such temporary HOV program;  
48 (ii) for at least 40 days prior to implementing such temporary HOV  
49 program, send by first class mail notice of such upcoming implementation  
50 to the owner of any vehicle that is not a bus, a commercial vehicle, an  
51 authorized emergency vehicle, or an access-a-ride vehicle, identified as  
52 having been driven on the Williamsburg bridge with fewer than three  
53 occupants during time periods defined by the New York city department of  
54 transportation in accordance with the provisions of section 1111-f of  
55 the vehicle and traffic law, as added by section ten of this act; and  
56 (iii) take such measures as are necessary to implement such temporary

1 HOV program prior to its implementation, including promulgating any  
2 rules and regulations necessary for the implementation of this act.  
3 Failure to comply with the provisions of this section shall not affect  
4 the validity or implementation of the temporary HOV program authorized  
5 by section 1111-f of the vehicle and traffic law, as added by section  
6 ten of this act.

7 § 14. (a) This act shall take effect immediately; provided, however,  
8 that sections one through twelve of this act shall take effect April 1,  
9 2019, and shall expire six months after the metropolitan transportation  
10 authority restores regular subway passenger service in the Canarsie  
11 tunnel, or April 1, 2021, whichever is earlier, when upon such date the  
12 provisions of this act shall be deemed repealed; provided that the New  
13 York city department of transportation shall notify the legislative bill  
14 drafting commission upon the occurrence of such restoration in order  
15 that the commission may maintain an accurate and timely effective data-  
16 base of the official text of the laws of the state of New York in furth-  
17 erance of effectuating the provisions of section 44 of the legislative  
18 law and section 70-b of the public officers law.

19 (b) On and after the date the metropolitan transportation authority  
20 restores regular subway passenger service in the Canarsie tunnel, or  
21 April 1, 2021, whichever is earlier, the city of New York shall not be  
22 authorized or empowered to establish or continue a temporary HOV program  
23 on the Williamsburg bridge pursuant to paragraph 1 of subdivision (a) of  
24 section 1111-f of the vehicle and traffic law, as added by section ten  
25 of this act. On and after the date of restoration of regular subway  
26 passenger service in the Canarsie tunnel, or April 1, 2021, whichever is  
27 earlier, the New York city department of transportation shall not be  
28 authorized to operate HOV photo devices pursuant to paragraph 1 of  
29 subdivision (a) of section 1111-f of the vehicle and traffic law, as  
30 added by section ten of this act.

31 (c) Notwithstanding the expiration and repeal of certain provisions of  
32 this act, any violations issued prior to the date of restoration of  
33 regular subway passenger service in the Canarsie tunnel may be adjudi-  
34 cated after such date.

35 § 2. Severability. If any clause, sentence, paragraph, subdivision,  
36 section or part of this act shall be adjudged by any court of competent  
37 jurisdiction to be invalid, such judgment shall not affect, impair, or  
38 invalidate the remainder thereof, but shall be confined in its operation  
39 to the clause, sentence, paragraph, subdivision, section or part thereof  
40 directly involved in the controversy in which such judgment shall have  
41 been rendered. It is hereby declared to be the intent of the legislature  
42 that this act would have been enacted even if such invalid provisions  
43 had not been included herein.

44 § 3. This act shall take effect immediately; provided, however, that  
45 the applicable effective date of Parts A through D of this act shall be  
46 as specifically set forth in the last section of such Parts.