STATE OF NEW YORK

8572

2019-2020 Regular Sessions

IN ASSEMBLY

September 13, 2019

Introduced by M. of A. PALUMBO, STEC, CROUCH, BRABENEC, DeSTEFANO, BYRNES, MIKULIN -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to allowing a department of motor vehicles employee to employ an attorney-at-law to defend against certain civil actions

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

Section 1. The vehicle and traffic law is amended by adding a new section 224-b to read as follows:

§ 224-b. Actions and proceedings in official employment capacity. 1. Notwithstanding any inconsistent provision of law, a department of motor vehicles employee may employ an attorney-at-law to defend any civil action or proceeding brought against him or her in his or her official capacity as an agent of the commissioner.

2. All damages recovered against, or costs and expenses lawfully incurred by an employee of the department of motor vehicles, including attorney's fees, in the defense of a civil action or proceeding brought against such employee in his or her capacity as an agent of the commissioner for an official act done, or for failure to perform an official act, shall be a state charge and shall be audited and paid in the same manner as state charges. When the act upon which the action or proceeding is based was done in good faith, but without the authority of law or authorization by the commissioner, the state comptroller may audit and pay the same as state charges, even if such action or proceeding was initiated against the employee by the commissioner.

3. No proceeding or investigation for the termination of a department of motor vehicles employee shall be undertaken or directed to be undertaken against such employee on the basis of an action, or failure to act, of such employee, if done in good faith and with a reasonable belief that such employee is defending, protecting and upholding the

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

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constitution or laws of the United States or of this state, even if it is subsequently determined that such action or inaction was without authority of law or without express authorization.

§ 2. This act shall take effect immediately.