STATE OF NEW YORK

3047

2019-2020 Regular Sessions

IN SENATE

February 1, 2019

Introduced by Sen. SANDERS -- 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, in relation to prohibiting the issuance of late fees prior to a finding of liability for a parking violation; and repealing certain provisions of such law relating thereto

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

Section 1. Paragraph a of subdivision 2 of section 235 of the vehicle and traffic law, as amended by section 18 of part J of chapter 62 of the laws of 2003, is amended to read as follows:

a. Notice. (1) Whenever a city issues a notice of violation for a parking violation, it shall be served in the manner prescribed by subdivision two of section two hundred thirty-eight of this article.

(2) Whenever a person has been issued a notice of violation for a parking violation and has not responded in the manner described in the notice, a city shall give the owner a second notice of the violation by regular first class mail: (i) within forty days of issuance of the first notice of violation for a parking violation where the vehicle is a vehicle registered in this state; or (ii) within forty days of the receipt by such city of the name and address of the owner of the vehicle where the vehicle is a vehicle registered in any other state. Such second notice shall include, but not be limited to, the following information:

(A) that the owner has a period of twenty days from issuance of the second notice in which to respond to the notice of violation for a parking violation;

(B) that failure to respond to the notice of violation for a parking violation may result in the suspension and non-renewal of the owner's registration;

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

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(C) [~~that failure to respond to the notice of violation for a parking violation may subject the owner to additional penalties as provided in paragraph b of this subdivision;~~

~~(D)~~] that failure to respond to the notice of violation for a parking violation shall subject the owner to a default judgment as provided in paragraph [~~c~~] **b** of this subdivision [~~and the additional penalties imposed upon parking violations pursuant to paragraph b of this subdivision~~]; and

[~~(E)~~] **(D)** that submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine [~~and additional penalties imposed pursuant to paragraph b of this subdivision~~] and the mandatory surcharge of fifteen dollars imposed upon parking violations pursuant to section eighteen hundred nine-a of this chapter.

(1) Upon written application of the chief executive officer of any such city, the commissioner may authorize for a specified time period the use of a notice mailer form that does not contain all the information set forth in this subdivision but which was used by such city on or before the effective date of this section.

(2) In addition, the commissioner may suspend for a period not to exceed one year from the effective date of this section the provisions of this subdivision requiring that a second notice of violation be served within forty days of issuance of the first notice of a parking violation, upon written application of the chief executive officer of any such city demonstrating that immediate imposition of such notice requirement will cause substantial financial hardship to such city, and setting forth the steps to be taken by such city to achieve compliance with the notice requirements of this subdivision at the end of such one hundred eighty day period. Upon granting such application, the commissioner shall specify a period, not to exceed seventy-five days, within which such second notice must be served[~~, and shall adjust accordingly the time periods set forth in paragraph b of this subdivision to provide that the additional penalties set forth in such subdivision will not be imposed prior to the stated number of days from the service of such notice~~].

§ 2. Paragraphs b, b-1, b-2 and b-3 of subdivision 2 of section 235 of the vehicle and traffic law are REPEALED and paragraph c of subdivision 2 is relettered paragraph b.

§ 3. Subparagraph (iii) of paragraph (c) of subdivision 2-a of section 238 of the vehicle and traffic law, as added by chapter 409 of the laws of 2001, is amended to read as follows:

(iii) Upon a finding by a hearing examiner that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The hearing examiner may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation [~~and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to section two hundred thirty-five of this article. For purposes of determining the amount of such additional penalties, the hearing examiner shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding~~]. In any proceeding under this paragraph to set aside a determination and to impose penal-

ties for the violation, it shall not be necessary for the hearing examiner to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.

§ 4. The vehicle and traffic law is amended by adding a new section 238-a to read as follows:

§ 238-a. Prohibition of certain late fees. Notwithstanding any inconsistent provision of this article, or any general, special, or local law or administrative code to the contrary, an owner shall not be subject to additional penalties for failure to respond to a notice of violation but only, in the event such owner is found liable for such violation, failure to pay the imposed fine in a timely fashion.

§ 5. This act shall take effect immediately, provided, however that the amendments to subdivision 2 of section 235 of the vehicle and traffic law made by sections one and two of this act, shall not affect the expiration of such subdivision and shall be deemed to expire therewith.