

STATE OF NEW YORK

4089--A

Cal. No. 254

2019-2020 Regular Sessions

IN SENATE

February 27, 2019

Introduced by Sens. THOMAS, CARLUCCI, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- reported favorably from said committee and committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to authorizing political subdivisions and certain public authorities to establish demonstration programs implementing railroad grade crossing monitoring systems 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. Section 135-a of the vehicle and traffic law, as added by
2 chapter 501 of the laws of 2016, is amended to read as follows:

3 § 135-a. Railroad grade crossing. A location where [~~a public highway~~
4 ~~or private road, including associated sidewalks, crosses one or more~~]
5 railroad tracks [~~at grade~~] intersect a public or private highway, road-
6 way or sidewalk.

7 § 2. The vehicle and traffic law is amended by adding a new section
8 1170-a to read as follows:

9 § 1170-a. Owner liability for failure of operator to obey signal
10 indicating approach of train. (a) 1. Notwithstanding any other
11 provision of law, any political subdivision is hereby authorized and
12 empowered to adopt and amend a local law, ordinance or resolution estab-
13 lishing a demonstration program imposing monetary liability on the owner
14 of a vehicle for failure of an operator thereof to comply with section
15 eleven hundred seventy of this article. Such demonstration program shall
16 empower a political subdivision to install and operate railroad grade

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

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1 crossing photo violation-monitoring devices at any railroad grade cross-
2 ing within its jurisdiction. If installation, operation or maintenance
3 of equipment pursuant to this section requires entry upon the property
4 of the commuter railroad, the political subdivision or its agent shall
5 first secure permission from such railroad to enter upon the property.
6 All such work shall be performed in accordance with applicable federal
7 and state requirements and industry safety standards. The cost of such
8 photo violation-monitoring devices may be borne by the political subdivi-
9 vision, a commuter railroad operating within the political subdivision,
10 or a combination of both such political subdivision and commuter rail-
11 road pursuant to a memorandum of understanding.

12 2. Such demonstration program shall utilize necessary technologies to
13 ensure, to the extent practicable, that photographs produced by such
14 railroad grade crossing photo violation-monitoring systems shall not
15 include images that identify the driver, the passengers or the contents
16 of the vehicle. Provided, however, that no notice of liability issued
17 pursuant to this section shall be dismissed solely because a photograph
18 or photographs allow for the identification of the contents of a vehi-
19 cle, provided that such political subdivision has made a reasonable
20 effort to comply with the provisions of this paragraph.

21 (b) Within the jurisdiction of any such political subdivision which
22 has adopted a local law, ordinance or resolution pursuant to subdivision
23 (a) of this section, the owner of a vehicle shall be liable for a penal-
24 ty imposed pursuant to this section if such vehicle was used or operated
25 with the permission of the owner, express or implied, in violation of
26 section eleven hundred seventy of this article, and such violation is
27 evidenced by information obtained from a railroad grade crossing photo
28 violation-monitoring system; provided, however, that no owner of a vehi-
29 cle shall be liable for a penalty imposed pursuant to this section where
30 the operator of such vehicle has been convicted of the underlying
31 violation of section eleven hundred seventy of this article.

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

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

36 2. "Railroad grade crossing photo violation-monitoring system" shall
37 mean a vehicle sensor installed to work in conjunction with a railroad
38 sign or signal which automatically produces two or more photographs, two
39 or more microphotographs, a videotape or other recorded images of each
40 vehicle at the time it is used or operated in violation of section elev-
41 en hundred seventy of this article.

42 3. "Political subdivision" shall mean a county, city, town or village
43 located within the metropolitan commuter transportation district, as
44 defined in section twelve hundred sixty-two of the public authorities
45 law.

46 4. "Commuter railroad" shall mean a railroad owned and operated by the
47 metropolitan transportation authority and located within the metropol-
48 itan commuter transportation district, as defined in section twelve
49 hundred sixty-two of the public authorities law.

50 5. "Operator" shall have the same meaning as provided in section two
51 hundred thirty-nine of this chapter.

52 (d) A certificate, sworn to or affirmed by a technician employed by
53 the political subdivision in which the charged violation occurred, or a
54 facsimile thereof, based upon inspection of photographs, microphoto-
55 graphs, videotape or other recorded images produced by a railroad grade
56 crossing photo violation-monitoring system, shall be prima facie

1 evidence of the facts contained therein. Any photographs, microphoto-
2 graphs, videotape or other recorded images evidencing such a violation
3 shall be available for inspection in any proceeding to adjudicate the
4 liability for such violation pursuant to a local law, ordinance or
5 resolution adopted pursuant to this section.

6 (e) An owner liable for a violation of section eleven hundred seventy
7 of this article pursuant to a local law, ordinance or resolution adopted
8 pursuant to this section shall be liable for monetary penalties in
9 accordance with a schedule of fines and penalties to be established in
10 such local law, ordinance or resolution. The liability of the owner
11 pursuant to this section shall not exceed one hundred dollars for each
12 violation; provided, however, that an adjudicating authority may provide
13 for an additional penalty of not in excess of twenty-five dollars for
14 each violation for the failure to respond to a notice of liability with-
15 in the prescribed period of time.

16 (f) An imposition of liability under a local law, ordinance or resol-
17 ution adopted pursuant to this section shall not be deemed a conviction
18 as an operator and shall not be made part of the operating record of the
19 person upon whom such liability is imposed nor shall it be used for
20 insurance purposes in the provision of motor vehicle insurance coverage.

21 (g) 1. A notice of liability shall be sent by first class mail to each
22 person alleged to be liable as an owner for a violation of section elev-
23 en hundred seventy of this article pursuant to this section. Personal
24 delivery on the owner shall not be required. A manual or automatic
25 record of mailing prepared in the ordinary course of business shall be
26 prima facie evidence of the facts contained therein.

27 2. A notice of liability shall contain the name and address of the
28 person alleged to be liable as an owner for a violation of section elev-
29 en hundred seventy of this article pursuant to this section, the regis-
30 tration number of the vehicle involved in such violation, the location
31 where such violation took place, the date and time of such violation and
32 the identification number of the camera which recorded the violation or
33 other document locator number.

34 3. The notice of liability shall contain information advising the
35 person charged of the manner and the time in which he or she may contest
36 the liability alleged in the notice. Such notice of liability shall also
37 contain a warning to advise the person charged that failure to contest
38 in the manner and time provided shall be deemed an admission of liabil-
39 ity and that a default judgment may be entered thereon.

40 4. The notice of liability shall be prepared and mailed by the poli-
41 tical subdivision, or by any other entity authorized by such political
42 subdivision to prepare and mail such notification of violation.

43 (h) Adjudication of the liability imposed upon owners by this section
44 shall be by the court having jurisdiction over traffic infractions,
45 except that if such political subdivision has established an administra-
46 tive tribunal to hear and determine complaints of traffic infractions
47 constituting parking, standing or stopping violations such political
48 subdivision may, by local law, authorize such adjudication by such
49 tribunal.

50 (i) If an owner receives a notice of liability pursuant to this
51 section for any time period during which the vehicle was reported to a
52 law enforcement agency as having been stolen, it shall be a valid
53 defense to an allegation of liability for a violation of section eleven
54 hundred seventy of this article pursuant to this section that the vehi-
55 cle had been reported to the police as stolen after the owner found out
56 it was stolen and had not been recovered by the time the violation

1 occurred. For purposes of asserting the defense provided by this subdi-
2 vision it shall be sufficient that a certified copy of a police report
3 on the stolen vehicle be sent by first class mail to the court or admin-
4 istrative tribunal having jurisdiction.

5 (j) 1. In such political subdivision where the adjudication of liabil-
6 ity imposed upon owners pursuant to this section is by a court having
7 jurisdiction, an owner who is a lessor of a vehicle to which a notice of
8 liability was issued pursuant to subdivision (g) of this section shall
9 not be liable for the violation of section eleven hundred seventy of
10 this article, provided that he or she sends to the court having juris-
11 isdiction a copy of the rental, lease or other such contract document
12 covering such vehicle on the date of the violation, with the name and
13 address of the lessee clearly legible, within thirty-seven days after
14 receiving notice from the court of the date and time of such violation,
15 together with the other information contained in the original notice of
16 liability. Failure to send such information within such thirty-seven
17 day time period shall render the owner liable for the penalty prescribed
18 by this section. Where the lessor complies with the provisions of this
19 paragraph, the lessee of such vehicle on the date of such violation
20 shall be deemed to be the owner of such vehicle for purposes of this
21 section, shall be subject to liability for the violation of section
22 eleven hundred seventy of this article pursuant to this section and
23 shall be sent a notice of liability pursuant to subdivision (g) of this
24 section.

25 2. (I) In such political subdivision which has authorized the adjudi-
26 cation of liability imposed upon owners by this section by an adminis-
27 trative tribunal, an owner who is a lessor of a vehicle to which a
28 notice of liability was issued pursuant to subdivision (g) of this
29 section shall not be liable for the violation of section eleven hundred
30 seventy of this article, provided that:

31 (A) prior to the violation, the lessor has filed with the tribunal the
32 vehicle identification information in accordance with the provisions of
33 section two hundred thirty-nine of this chapter; and

34 (B) within thirty-seven days after receiving notice from the tribunal
35 of the date and time of a liability, together with the other information
36 contained in the original notice of liability, the lessor submits to the
37 tribunal the correct name and address of the lessee of the vehicle iden-
38 tified in the notice of liability at the time of such violation, togeth-
39 er with such other additional information contained in the rental, lease
40 or other contract document, as may be reasonably required by the tribu-
41 nal pursuant to regulations that may be promulgated for such purpose.

42 (II) Failure to comply with clause (B) of subparagraph (I) of this
43 paragraph shall render the owner liable for the penalty prescribed in
44 this section.

45 (III) Where the lessor complies with the provisions of this paragraph,
46 the lessee of such vehicle on the date of such violation shall be deemed
47 to be the owner of such vehicle for purposes of this section, shall be
48 subject to liability for such violation pursuant to this section and
49 shall be sent a notice of liability pursuant to subdivision (g) of this
50 section.

51 (k) 1. If the owner liable for a violation of section eleven hundred
52 seventy of this article pursuant to this section was not the operator of
53 the vehicle at the time of the violation, the owner may maintain an
54 action for indemnification against the operator.

55 2. Notwithstanding any other provision of this section, no owner of a
56 vehicle shall be subject to a monetary fine imposed pursuant to this

1 section if the operator of such vehicle was using or operating such
2 vehicle without the permission of the owner at the time such operator
3 failed to obey a railroad sign or signal indicating the approach of a
4 train. For purposes of this subdivision there shall be a presumption
5 that the operator of such vehicle was using or operating such vehicle
6 with the permission of the owner at the time such operator failed to
7 obey a railroad sign or signal indicating the approach of a train.

8 (l) Nothing in this section shall be construed to limit the liability
9 of an operator of a vehicle for any violation of section eleven hundred
10 seventy of this article.

11 (m) In any such political subdivision which adopts a demonstration
12 program pursuant to subdivision (a) of this section, such political
13 subdivision shall submit an annual report on the results of the use of a
14 railroad grade crossing photo violation-monitoring system to the gover-
15 nor, the temporary president of the senate and the speaker of the assem-
16 bly on or before June first, two thousand twenty and on the same date in
17 each succeeding year in which the demonstration program is operable.
18 Such report shall include, but not be limited to:

19 1. a description of the locations where railroad grade crossing photo
20 violation-monitoring systems were used;

21 2. the aggregate number, type and severity of accidents reported at
22 intersections where a railroad grade crossing photo violation-monitoring
23 system is used for the year preceding the installation of such system,
24 to the extent the information is maintained by the department;

25 3. the aggregate number, type and severity of accidents reported at
26 intersections where a railroad grade crossing photo violation-monitoring
27 system is used, to the extent the information is maintained by the
28 department;

29 4. the number of violations recorded at each intersection where a
30 railroad grade crossing photo violation-monitoring system is used and in
31 the aggregate on a daily, weekly and monthly basis;

32 5. the total number of notices of liability issued for violations
33 recorded by such systems;

34 6. the number of fines and total amount of fines paid after first
35 notice of liability issued for violations recorded by such systems;

36 7. the number of violations adjudicated and results of such adjudi-
37 cations including breakdowns of dispositions made for violations
38 recorded by such systems;

39 8. the total amount of revenue realized by such political subdivision
40 from such adjudications;

41 9. expenses incurred by such political subdivision in connection with
42 the program; and

43 10. quality of the adjudication process and its results.

44 (n) It shall be a defense to any prosecution for a violation of
45 section eleven hundred seventy of this article pursuant to a local law
46 or ordinance adopted pursuant to this section that the railroad signal
47 indications were malfunctioning at the time of the alleged violation.

48 § 3. The vehicle and traffic law is amended by adding a new section
49 1633 to read as follows:

50 § 1633. Railroad grade crossing enforcement; demonstration program.

51 (a) 1. Notwithstanding any other provision of law, the Long Island Rail
52 Road and the Metro-North Commuter Railroad (hereinafter referred to as
53 "the commuter railroads") are hereby authorized and empowered to imple-
54 ment a demonstration program imposing monetary liability on the owner of
55 a vehicle for failure of an operator thereof to comply with section
56 eleven hundred seventy of this chapter. Such demonstration program

1 shall empower each of the commuter railroads to install, operate and
2 maintain railroad grade crossing photo violation-monitoring devices at
3 any railroad grade crossing with a sign or signal that indicates the
4 approach of one of its trains. If installation, operation or maintenance
5 of equipment pursuant to this section requires entry upon the property
6 of the political subdivision, the commuter railroad or its agent shall
7 first secure permission from such political subdivision to enter upon
8 the property. All such work shall be performed in accordance with appli-
9 cable federal and state requirements and industry safety standards. The
10 costs associated with the installation, operation and maintenance of the
11 railroad grade crossing photo violation-monitoring equipment located on
12 the railroad right of way shall be borne by the commuter railroad,
13 provided, however, in any case where the equipment is to be located on
14 both railroad property and the property of the political subdivision,
15 the terms and conditions for installation, operation and maintenance of
16 such equipment, including cost apportionment, if applicable, shall be
17 determined pursuant to a memorandum of understanding between the commu-
18 ter railroad and the political subdivision.

19 2. Such demonstration program shall utilize necessary technologies to
20 ensure, to the extent practicable, that photographs produced by such
21 railroad grade crossing photo violation-monitoring systems shall not
22 include images that identify the driver, the passengers or the contents
23 of the vehicle. Provided, however that no notice of liability issued
24 pursuant to this section shall be dismissed solely because a photograph
25 or photographs allow for the identification of the driver, the passen-
26 gers or the contents of a vehicle, provided that the commuter railroad
27 has made a reasonable effort to comply with the provisions of this para-
28 graph.

29 (b) Subject to the provisions of subdivision (a) of this section and
30 subject to the adjudicatory process of the appropriate political subdi-
31 vision, the owner of a vehicle shall be liable for a penalty imposed
32 pursuant to this section if such vehicle was used or operated with the
33 permission of the owner, express or implied, in violation of section
34 eleven hundred seventy of this chapter, and such violation is evidenced
35 by information obtained from a railroad grade crossing photo violation-
36 monitoring system; provided, however, that no owner of a vehicle shall
37 be liable for a penalty imposed pursuant to this section where the oper-
38 ator of such vehicle has been convicted of the underlying violation of
39 section eleven hundred seventy of this chapter.

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

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

44 2. "Railroad grade crossing photo violation-monitoring system" shall
45 mean a vehicle sensor installed to work in conjunction with a railroad
46 sign or signal which automatically produces two or more photographs, two
47 or more microphotographs, a videotape or other recorded images of each
48 vehicle at the time it is used or operated in violation of section elev-
49 en hundred seventy of this chapter;

50 3. "Political subdivision" shall mean a county, city, town or village
51 located within the metropolitan commuter transportation district, as
52 such district is defined in section twelve hundred sixty-two of the
53 public authorities law.

54 4. "Operator" shall have the same meaning as provided in section two
55 hundred thirty-nine of this chapter.

1 (d) A certificate, sworn to or affirmed by a technician employed by
2 the commuter railroad where the charged violation occurred, or a facsim-
3 ile thereof, based upon inspection or photographs, microphotographs,
4 videotape or other recorded images produced by a railroad grade crossing
5 photo violation-monitoring system, shall be prima facie evidence of the
6 facts contained therein. Any photographs, microphotographs, videotape or
7 other recorded images evidencing such a violation shall be available for
8 inspection in any proceeding to adjudicate the liability for such
9 violation pursuant to law.

10 (e) An owner liable for a violation of section eleven hundred seventy
11 of this chapter pursuant to a railroad grade crossing demonstration
12 program adopted pursuant to this section shall be liable for monetary
13 penalties not to exceed one hundred dollars for each violation provided,
14 however, that an adjudicating authority may provide for an additional
15 penalty of not in excess of twenty-five dollars for each violation for
16 the failure to respond to a notice of liability within the prescribed
17 period of time.

18 (f) An imposition of liability pursuant to this section shall not be
19 deemed a conviction as an operator and shall not be made part of the
20 operating record of the person upon whom such liability is imposed nor
21 shall it be used for insurance purposes in the provision of motor vehi-
22 cle insurance coverage.

23 (g) 1. A notice of liability shall be sent by first class mail to each
24 person alleged to be liable as an owner for a violation of section elev-
25 en hundred seventy of this chapter pursuant to this section and a copy
26 of such notice shall be sent by first class mail to the political subdivi-
27 sion. Personal delivery on the owner shall not be required. A manual
28 or automatic record of mailing prepared in the ordinary course of busi-
29 ness shall be prima facie evidence of the facts contained therein.

30 2. A notice of liability shall contain the name and address of the
31 person alleged to be liable as an owner for a violation of section elev-
32 en hundred seventy of this chapter pursuant to this section, the regis-
33 tration number of the vehicle involved in such violation, the location
34 where such violation took place, the date and time of such violation and
35 the identification number of the camera which recorded the violation or
36 other document locator number.

37 3. The notice of liability shall contain information advising the
38 person charged of the manner and the time in which he or she may contest
39 the liability alleged in the notice. Such notice of liability shall also
40 contain a warning to advise the person charged that failure to contest
41 the manner and time provided shall be deemed an admission of liability
42 and that a default judgment may be entered thereon.

43 4. The notice of liability shall be prepared and mailed by the commu-
44 ter railroad, or by any other entity authorized by such commuter rail-
45 road to prepare and mail such notification of violation.

46 (h) Adjudication of the liability imposed upon owners by this section
47 shall be by the court having jurisdiction over traffic infractions,
48 except that if a political subdivision has established an administrative
49 tribunal to hear and determine complaints of traffic infractions consti-
50 tuting parking, standing or stopping violations, such political subdivi-
51 sion may, by local law, authorize such adjudication by such tribunal.

52 (i) If an owner receives a notice of liability pursuant to this
53 section for any time period during which the vehicle was reported to a
54 law enforcement agency as having been stolen, it shall be a valid
55 defense to an allegation of liability for a violation of section eleven
56 hundred seventy of this chapter pursuant to this section that the vehi-

1 cle had been reported to the police as stolen after the owner found out
2 it was stolen and had not been recovered by the time the violation
3 occurred. For purposes of asserting the defense provided by this subdi-
4 vision it shall be sufficient that a certified copy of a police report
5 on the stolen vehicle be sent by first class mail to the court or admin-
6 istrative tribunal having jurisdiction or parking violations bureau.

7 (j) 1. In any political subdivision where the adjudication of liabil-
8 ity imposed upon owners pursuant to this section is by a court having
9 jurisdiction, an owner who is a lessor of a vehicle to which a notice of
10 liability was issued pursuant to subdivision (g) of this section shall
11 not be liable for the violation of section eleven hundred seventy of
12 this chapter, provided that he or she sends to the court having juris-
13 isdiction a copy of the rental, lease or other such contract document
14 covering such vehicle on the date of the violation, with the name and
15 address of the lessee clearly legible, within thirty-seven days after
16 receiving notice from the court of the date and time of such violation,
17 together with the other information contained in the original notice of
18 liability. Failure to send such information within such thirty-seven day
19 time period shall render the owner liable for the penalty prescribed by
20 this section. Where the lessor complies with the provisions of this
21 paragraph, the lessee of such vehicle on the date of such violation
22 shall be deemed to be the owner of such vehicle for purposes of this
23 section, shall be subject to liability for the violation of section
24 eleven hundred seventy of this chapter pursuant to this section and
25 shall be sent a notice of liability pursuant to subdivision (g) of this
26 section.

27 2. (i) In any political subdivision which has authorized the adjudi-
28 cation of liability imposed upon owners by this section by an adminis-
29 trative tribunal, an owner who is a lessor of a vehicle to which a
30 notice of liability was issued pursuant to subdivision (g) of this
31 section shall not be liable for the violation of section eleven hundred
32 seventy of this chapter, provided that:

33 (A) Prior to the violation, the lessor has filed with the tribunal the
34 vehicle identification information in accordance with the provisions of
35 section two hundred thirty-nine of this chapter; and

36 (B) Within thirty-seven days after receiving notice from the tribunal
37 of the date and time of a liability, together with the other information
38 contained in the original notice of liability, the lessor submits to the
39 tribunal the correct name and address of the lessee of the vehicle iden-
40 tified in the notice of liability at the time of such violation, togeth-
41 er with such other additional information contained in the rental, lease
42 or other contract document, as may be reasonably required by the tribu-
43 nal pursuant to regulations that may be promulgated for such purpose.

44 (ii) Failure to comply with clause (B) of subparagraph (i) of this
45 paragraph shall render the owner liable for the penalty prescribed in
46 this section.

47 (iii) Where the lessor complies with the provisions of this paragraph,
48 the lessee of such vehicle on the date of such violation shall be deemed
49 to be the owner of such vehicle for purposes of this section, shall be
50 subject to liability for such violation pursuant to this section and
51 shall be sent a notice of liability pursuant to subdivision (g) of this
52 section.

53 (k) 1. If the owner liable for a violation of section eleven hundred
54 seventy of this chapter pursuant to this section was not the operator of
55 the vehicle at the time of the violation, the owner may maintain an
56 action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was using or operating such vehicle without the permission of the owner at the time such operator failed to obey a railroad sign or signal indicating the approach of a train. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was using or operating such vehicle with the permission of the owner at the time such operator failed to obey a railroad sign or signal indicating the approach of a train.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of section eleven hundred seventy of this chapter.

(m) Where a commuter railroad adopts a demonstration program pursuant to subdivision (a) of this section, such railroad shall submit an annual report on the results of the use of a railroad grade crossing photo violation-monitoring system to the governor, the temporary president of the senate and speaker of the assembly on or before June first, two thousand twenty and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where railroad grade crossing photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used, to the extent the information is maintained by the department;

4. the number of violations recorded at each intersection where a railroad grade crossing photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the total number of notices of liability issued for violations recorded by such systems;

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

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

8. the total amount of revenue realized by all applicable political subdivisions from such adjudications;

9. expenses incurred by such commuter railroad and political subdivision in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be a defense to any prosecution for a violation of section eleven hundred seventy of this chapter pursuant to a local law or ordinance adopted pursuant to this section that there is verified evidence that the railroad signal indications were malfunctioning at the time of the alleged violation.

§ 4. The opening paragraph of subdivision 1 of section 1803 of the vehicle and traffic law, as amended by chapter 385 of the laws of 1999, is amended to read as follows:

Except as otherwise provided in subdivision five of section two hundred twenty-seven of this chapter, section eleven hundred seventy-a of this chapter, section sixteen hundred thirty-three of this chapter

1 and as provided in section eleven hundred ninety-seven of this chapter,
2 section ninety of the state finance law and sections fourteen-f and one
3 hundred forty of the transportation law, all fines and penalties
4 collected under a sentence or judgment of conviction of a violation of
5 this chapter or of any act relating to the use of highways by motor
6 vehicles or trailers, now in force or hereafter enacted, shall be
7 distributed in the following manner:

8 § 5. Section 1803 of the vehicle and traffic law is amended by adding
9 a new subdivision 10 to read as follows:

10 10. Where a commuter railroad establishes a railroad grade crossing
11 demonstration program pursuant to section sixteen hundred thirty-three
12 of this chapter, all fines, penalties and forfeitures collected pursuant
13 to such section shall be paid to the county, city, town or village with-
14 in whose jurisdiction the subject railroad grade crossing is located.

15 § 6. Subdivision 2 of section 87 of the public officers law is amended
16 by adding a new paragraph (q) to read as follows:

17 (q) are photographs, microphotographs, videotape or other recorded
18 images prepared under the authority of section eleven hundred seventy-a
19 of the vehicle and traffic law.

20 § 7. This act shall take effect on the thirtieth day after it shall
21 have become a law, and shall expire and be deemed repealed 5 years after
22 such effective date.