

STATE OF NEW YORK

10336

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hyndman) --
read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to owner liability for failure of operator to comply with bus operation-related local law or regulation traffic restrictions and to the adjudication of certain parking infractions; and to amend part II of chapter 59 of the laws of 2010, amending the vehicle and traffic law and the public officers law relating to establishing a bus rapid transit demonstration program to restrict the use of bus lanes by means of bus lane photo devices, in relation to the effectiveness thereof

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

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 1111-c-1 to read as follows:

3 § 1111-c-1. Owner liability for failure of operator to comply with bus
4 operation-related traffic regulations. (a) Notwithstanding any other
5 provision of law, in accordance with the provisions of this section, the
6 city of New York is hereby authorized and empowered to impose monetary
7 liability on the owner of a vehicle for failure of an operator thereof
8 to comply with bus operation-related traffic regulations. The department
9 of transportation of the city of New York and/or an applicable mass
10 transit agency, shall operate photo devices that may be stationary or
11 mobile and shall be activated at locations determined by such department
12 of transportation and/or on buses selected by the applicable mass trans-
13 it agency.

14 (b) Any image or images captured by photo devices shall be inadmissi-
15 ble in any disciplinary proceeding convened by the applicable mass tran-
16 sit agency or any subsidiary thereof and any proceeding initiated by the
17 department involving licensure privileges of bus operators. Any mobile
18 bus photo device mounted on a bus shall be directed outwardly from such
19 bus to capture images of vehicles operated in violation of bus opera-
20 tion-related traffic regulations, and images produced by such device
21 shall not be used for any other purpose in the absence of a court order
22 requiring such images to be produced.

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

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1 (c) The city of New York shall adopt and enforce measures to protect
2 the privacy of drivers, passengers, pedestrians and cyclists whose iden-
3 tity and identifying information may be captured by a photo device
4 pursuant to this section. Such measures shall include:

5 1. utilization of necessary technologies to ensure, to the extent
6 practicable, that images produced by such photo devices shall not
7 include images that identify the driver, the passengers, or the contents
8 of a vehicle, provided, however, that no notice of liability issued
9 pursuant to this section shall be dismissed solely because an image
10 allows for the identification of the driver, the passengers or other
11 contents of a vehicle;

12 2. a prohibition on the use or dissemination of vehicles' license
13 plate information and other information and images captured by photo
14 devices except:

15 (i) as required to establish liability under this section or collect
16 payment of penalties;

17 (ii) as required by court order;

18 (iii) as required pursuant to a search warrant issued in accordance
19 with the criminal procedure law or a subpoena; or

20 (iv) as otherwise required by law.

21 3. the installation of signage that is clearly visible to drivers at
22 regular intervals along and adjacent to bus lanes stating that mobile
23 and stationary photo devices are used to enforce restrictions relating
24 to bus operation traffic restrictions including stopping, standing,
25 parking and turning movements, in conformance with standards established
26 in the MUTCD; and

27 4. oversight procedures to ensure compliance with the privacy
28 protection measures under this subdivision.

29 (d) Warning notices of violation shall be issued during the first
30 sixty days that photo devices pursuant to this section are active and in
31 operation.

32 (e) The owner of a vehicle shall be liable for a penalty imposed
33 pursuant to this section if such vehicle was used or operated with the
34 permission of the owner, express or implied, in violation of any bus
35 operation-related traffic regulations and such violation is evidenced by
36 information obtained from a photo device; provided however that no owner
37 of a vehicle shall be liable for a penalty imposed pursuant to this
38 section where the operator of such vehicle has been convicted of the
39 underlying violation of such bus operation-related traffic regulation.

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

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

44 2. "photo device" shall mean a mobile or stationary device that is
45 capable of operating independently of an enforcement officer and produc-
46 es one or more images of each vehicle at the time it is in violation of
47 a bus operation-related traffic regulation.

48 3. "bus operation-related traffic regulations" shall mean the
49 restrictions set forth in chapter four of title thirty-four of the rules
50 of the city of New York affecting bus operations including but not
51 limited to the following: 4-08(f)(4), general no standing zones, bus
52 lanes; 4-08(c)(3), violation of posted no standing rules prohibited, bus
53 stop; 4-08(f)(1), general no standing zones, double parking; 4-08(k)(2),
54 special rules for commercial vehicles, no standing except trucks loading
55 and unloading; 4-07(b)(1), obstruction of traffic, traffic lane;
56 4-08(e)(11), general no stopping zones, major roadways; 4-08(e)(4),

1 general no stopping zones, intersections; 4-08(e)(5), general no stop-
2 ping zones, crosswalks; 4-08(e)(12), general no stopping zones,
3 obstructing traffic at intersection; and 4-05, turns; and 4-07(h)(2),
4 driving on divided highways, U-turns.

5 4. "lessor" means any person, corporation, firm, partnership, agency,
6 association or organization engaged in the business of renting or leas-
7 ing vehicles to any lessee or bailee under a rental agreement, lease or
8 otherwise, wherein the said lessee or bailee has the exclusive use of
9 said vehicle for any period of time.

10 5. "lessee" means any person, corporation, firm, partnership, agency,
11 association or organization that rents, bails, leases or contracts for
12 the use of one or more vehicles and has the exclusive use thereof for
13 any period of time.

14 6. "manual on uniform traffic control devices" or "MUTCD" means the
15 manual and specifications for a uniform system of traffic control
16 devices maintained by the commissioner of transportation pursuant to
17 section sixteen hundred eighty of this chapter.

18 (g) A certificate, sworn to or affirmed by a technician employed by
19 the city of New York in which the charged violation occurred, or a
20 facsimile thereof, based upon inspection of photographs, microphoto-
21 graphs, videotape or other recorded images produced by a photo device,
22 shall be prima facie evidence of the facts contained therein. Any
23 photographs, microphotographs, videotape or other recorded images
24 evidencing such a violation shall be available for inspection in any
25 proceeding to adjudicate the liability for such violation pursuant to
26 this section.

27 (h) An owner liable for a violation under this section shall be liable
28 for monetary penalties in accordance with a schedule of fines and penal-
29 ties promulgated by the parking violations bureau of the city of New
30 York; provided, however, that the monetary penalty for violating a bus
31 operation-related traffic regulation pursuant to this section shall not
32 exceed fifty dollars for a first offense, one hundred dollars for a
33 second offense within a twelve-month period, one hundred fifty dollars
34 for a third offense within a twelve-month period, two hundred dollars
35 for a fourth offense within a twelve-month period, and two hundred fifty
36 dollars for each subsequent offense within a twelve-month period; and
37 provided, further, that an owner shall be liable for an additional
38 penalty not to exceed twenty-five dollars for each violation for the
39 failure to respond to a notice of liability within the prescribed time
40 period.

41 (i) An imposition of liability pursuant to this section shall not be
42 deemed a conviction of an operator and shall not be made part of the
43 operating record of the person upon whom such liability is imposed, nor
44 shall it be used for insurance purposes in the provision of motor vehi-
45 cle insurance coverage.

46 (j) 1. A notice of liability pursuant to this section shall be sent by
47 first class mail to each person alleged to be liable as an owner for a
48 violation under this section. Personal delivery to the owner shall not
49 be required. A manual or automatic record of mailing prepared in the
50 ordinary course of business shall be prima facie evidence of the facts
51 contained in such record of mailing.

52 2. A notice of liability pursuant to this section shall contain the
53 name and address of the person alleged to be liable as an owner for a
54 violation, the registration number of the vehicle involved in such
55 violation, the location where such violation took place including the
56 street address or cross streets, one or more images identifying the

1 violation, the date and time of such violation, the identification
2 number of the photo device which recorded the violation or other docu-
3 ment locator number, and whether the device was stationary or mobile. If
4 the photo device was mobile, an identity of the vehicle containing such
5 photo device shall be included in the notice.

6 3. A notice of liability pursuant to this section shall contain infor-
7 mation advising the person charged of the manner and the time in which
8 he or she may contest the liability alleged in the notice. Such notice
9 of liability shall also contain a warning to advise the persons charged
10 that failure to contest in the manner and time provided shall be deemed
11 an admission of liability and that a default judgment may be entered
12 thereon.

13 4. A notice of liability pursuant to this section shall be prepared
14 and mailed by the agency or agencies designated by the city of New York,
15 or any other entity authorized by such city to prepare and mail such
16 notification of violation.

17 (k) Adjudication of the liability imposed upon owners by this section
18 shall be conducted by the New York city parking violations bureau.

19 (l) If an owner of a vehicle receives a notice of liability pursuant
20 to this section for any time period during which such vehicle was
21 reported to the police department as having been stolen, it shall be a
22 valid defense to an allegation of liability that the vehicle had been
23 reported to the police as stolen prior to the time the violation
24 occurred and had not been recovered by such time. For purposes of
25 asserting the defense under this subdivision, it shall be sufficient
26 that a certified copy of the police report on the stolen vehicle be sent
27 by first class mail to the parking violations bureau of the city of New
28 York.

29 (m) 1. An owner who is a lessor of a vehicle to which a notice of
30 liability was issued pursuant to this section shall not be liable for
31 the violation of a bus operation-related traffic regulation, provided
32 that:

33 (i) prior to such violation, the lessor has filed with the parking
34 violations bureau of the city of New York in accordance with the
35 provisions of section two hundred thirty-nine of this chapter; and

36 (ii) within thirty-seven days after receiving notice from the parking
37 violations bureau of the city of New York of the date and time of a
38 liability, together with the other information contained in the original
39 notice of liability, the lessor submits to such bureau the correct name
40 and address of the lessee of the vehicle identified in the notice of
41 liability at the time of such violation, together with such other addi-
42 tional information contained in the rental, lease or other contract
43 document, as may be reasonably required by such bureau pursuant to regu-
44 lations that may be promulgated for such purpose. Failure to timely
45 submit such information shall render the lessor liable for the penalty
46 prescribed in this section.

47 2. Where the lessor complies with the provisions of subparagraph

48 (i) of paragraph one of this subdivision, the lessee of such vehicle
49 on the date of such violation shall be deemed to be the owner of such
50 vehicle for purposes of this section, shall be subject to liability for
51 such violation pursuant to this section and shall be sent a notice of
52 liability pursuant to subdivision (j) of this section.

53 (n) If the owner liable for a violation under this section was not the
54 operator of the vehicle at the time of such violation, such owner may
55 maintain an action for indemnification against the operator of the vehi-
56 cle at the time of such violation.

1 (o) Nothing in this section shall be construed to limit the liability
 2 of an operator of a vehicle for any violation of a bus operation-related
 3 traffic regulation.

4 (p) The city of New York and the applicable mass transit agency shall
 5 submit a report on the results of the use of photo devices pursuant to
 6 this section to the governor, the temporary president of the senate, and
 7 the speaker of the assembly by April first, within twelve months of
 8 operation of such photo devices and every two years thereafter. Such
 9 report shall include, but not be limited to:

10 1. a description of the locations and/or buses where photo devices
 11 were used under this section;

12 2. the total number of violations under this section recorded on a
 13 monthly and annual basis;

14 3. the total number of notices of liability issued under this section;

15 4. the number of fines and total amount of fines paid after the first
 16 notice of liability under this section;

17 5. the number of violations under this section adjudicated and results
 18 of such adjudications including breakdowns of dispositions made;

19 6. the total amount of revenue realized by the city of New York and
 20 any participating mass transit agency under this section;

21 7. the quality of the adjudication process under this section and its
 22 results;

23 8. the total number of cameras by type of camera used under this
 24 section; and

25 9. the total cost to the city of New York and the total cost to any
 26 participating mass transit agency under this section.

27 (q) Any revenue from fines and penalties collected pursuant to this
 28 section from mobile bus photo devices shall be remitted by the city of
 29 New York to the applicable mass transit agency on a quarterly basis to
 30 be deposited in the general transportation account of the New York city
 31 transportation assistance fund established pursuant to section twelve
 32 hundred seventy-i of the public authorities law.

33 § 2. The opening paragraph of section 14 of part II of chapter 59 of
 34 the laws of 2010, amending the vehicle and traffic law and the public
 35 officers law relating to establishing a bus rapid transit demonstration
 36 program to restrict the use of bus lanes by means of bus lane photo
 37 devices, as amended by section 2 of part D of chapter 39 of the laws of
 38 2019, is amended to read as follows:

39 This act shall take effect on the ninetieth day after it shall have
 40 become a law [~~and shall expire 15 years after such effective date when~~
 41 ~~upon such date the provisions of this act shall be deemed repealed~~]; and
 42 provided that any rules and regulations related to this act shall be
 43 promulgated on or before such effective date, provided that:

44 § 3. Subdivision 1 of section 235 of the vehicle and traffic law, as
 45 added by chapter 421 of the laws of 2021, is amended to read as follows:

46 1. Notwithstanding any inconsistent provision of any general, special
 47 or local law or administrative code to the contrary, in any city which
 48 heretofore or hereafter is authorized to establish an administrative
 49 tribunal: (a) to hear and determine complaints of traffic infractions
 50 constituting parking, standing or stopping violations, or (b) to adjudi-
 51 cate the liability of owners for violations of subdivision (d) of
 52 section eleven hundred eleven of this chapter imposed pursuant to a
 53 local law or ordinance imposing monetary liability on the owner of a
 54 vehicle for failure of an operator thereof to comply with traffic-con-
 55 trol indications through the installation and operation of traffic-con-
 56 trol signal photo violation-monitoring systems, in accordance with arti-

1 cle twenty-four of this chapter, or (c) to adjudicate the liability of
2 owners for violations of subdivision (b), (c), (d), (f) or (g) of
3 section eleven hundred eighty of this chapter imposed pursuant to a
4 demonstration program imposing monetary liability on the owner of a
5 vehicle for failure of an operator thereof to comply with such posted
6 maximum speed limits through the installation and operation of photo
7 speed violation monitoring systems, in accordance with article thirty of
8 this chapter, or (d) to adjudicate the liability of owners for
9 violations of bus lane restrictions as defined by article twenty-four of
10 this chapter imposed pursuant to a bus rapid transit program imposing
11 monetary liability on the owner of a vehicle for failure of an operator
12 thereof to comply with such bus lane restrictions through the installa-
13 tion and operation of bus lane photo devices, in accordance with article
14 twenty-four of this chapter, or (e) to adjudicate the liability of
15 owners for violations of toll collection regulations imposed by certain
16 public authorities pursuant to the law authorizing such public authori-
17 ties to impose monetary liability on the owner of a vehicle for failure
18 of an operator thereof to comply with toll collection regulations of
19 such public authorities through the installation and operation of
20 photo-monitoring systems, in accordance with the provisions of section
21 two thousand nine hundred eighty-five of the public authorities law and
22 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
23 seventy-four of the laws of nineteen hundred fifty, or (f) to adjudicate
24 the liability of owners for violations of section eleven hundred seven-
25 ty-four of this chapter when meeting a school bus marked and equipped as
26 provided in subdivisions twenty and twenty-one-c of section three
27 hundred seventy-five of this chapter imposed pursuant to a local law or
28 ordinance imposing monetary liability on the owner of a vehicle for
29 failure of an operator thereof to comply with school bus red visual
30 signals through the installation and operation of school bus photo
31 violation monitoring systems, in accordance with article twenty-nine of
32 this chapter, or (g) to adjudicate the liability of owners for
33 violations of subdivision (b), (d), (f) or (g) of section eleven hundred
34 eighty of this chapter imposed pursuant to a demonstration program
35 imposing monetary liability on the owner of a vehicle for failure of an
36 operator thereof to comply with such posted maximum speed limits within
37 a highway construction or maintenance work area through the installation
38 and operation of photo speed violation monitoring systems, in accordance
39 with article thirty of this chapter, such tribunal and the rules and
40 regulations pertaining thereto shall be constituted in substantial
41 conformance with the following sections, or (h) to adjudicate the
42 liability of owners for any other violation of a bus operation-related
43 traffic restriction regulation, in accordance with article twenty-four
44 of this chapter.

45 § 4. This act shall take effect immediately; provided that section one
46 of this act shall take effect one year after it shall have become a law.
47 Effective immediately, the addition, amendment and/or repeal of any rule
48 or regulation necessary for the implementation of this act on its effec-
49 tive date are authorized to be made and completed on or before such
50 effective date.