

STATE OF NEW YORK

3239

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

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:

1 Section 1. Paragraph a of subdivision 2 of section 235 of the vehicle
2 and traffic law, as amended by section 18 of part J of chapter 62 of the
3 laws of 2003, is amended to read as follows:
4 a. Notice. (1) Whenever a city issues a notice of violation for a
5 parking violation, it shall be served in the manner prescribed by subdivi-
6 sion two of section two hundred thirty-eight of this article.
7 (2) Whenever a person has been issued a notice of violation for a
8 parking violation and has not responded in the manner described in the
9 notice, a city shall give the owner a second notice of the violation by
10 regular first class mail: (i) within forty days of issuance of the first
11 notice of violation for a parking violation where the vehicle is a vehi-
12 cle registered in this state; or (ii) within forty days of the receipt
13 by such city of the name and address of the owner of the vehicle where
14 the vehicle is a vehicle registered in any other state. Such second
15 notice shall include, but not be limited to, the following information:
16 (A) that the owner has a period of twenty days from issuance of the
17 second notice in which to respond to the notice of violation for a park-
18 ing violation;
19 (B) that failure to respond to the notice of violation for a parking
20 violation may result in the suspension and non-renewal of the owner's
21 registration;

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

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

4 (D)] that failure to respond to the notice of violation for a parking
5 violation shall subject the owner to a default judgment as provided in
6 paragraph [e] b of this subdivision [~~and the additional penalties~~
7 ~~imposed upon parking violations pursuant to paragraph b of this subdivi-~~
8 ~~sion~~]; and

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

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

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

35 § 2. Paragraphs b, b-1, b-2 and b-3 of subdivision 2 of section 235 of
36 the vehicle and traffic law are REPEALED and paragraph c of subdivision
37 2 is relettered paragraph b.

38 § 3. Subparagraph (iii) of paragraph (c) of subdivision 2-a of section
39 238 of the vehicle and traffic law, as added by chapter 409 of the laws
40 of 2001, is amended to read as follows:

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

1 ties for the violation, it shall not be necessary for the hearing exam-
2 iner to find that the owner personally committed the unlawful acts that
3 procured the dismissal of the violation.

4 § 4. The vehicle and traffic law is amended by adding a new section
5 238-a to read as follows:

6 § 238-a. Prohibition of certain late fees. Notwithstanding any incon-
7 sistent provision of this article, or any general, special, or local law
8 or administrative code to the contrary, an owner shall not be subject to
9 additional penalties for failure to respond to a notice of violation but
10 only, in the event such owner is found liable for such violation, fail-
11 ure to pay the imposed fine in a timely fashion.

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