

# STATE OF NEW YORK

1398--A

2021-2022 Regular Sessions

## IN SENATE

January 11, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to the establishment in the city of New York of a bicycle lane safety program; 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. The vehicle and traffic law is amended by adding a new  
2 section 1111-g to read as follows:

3 § 1111-g. Owner liability for failure of operator to comply with bicy-  
4 cle lane restrictions. (a) 1. Notwithstanding any other provision of  
5 law, the city of New York is hereby authorized and empowered to estab-  
6 lish a bicycle lane safety program imposing monetary liability on the  
7 owner of a motor vehicle for failure of an operator thereof to comply  
8 with bicycle lane restrictions in such city in accordance with the  
9 provisions of this section. The New York city department of transporta-  
10 tion, for purposes of the implementation of such program, shall install  
11 and operate bicycle lane photo devices on, within or in close proximity  
12 to protected bicycle lanes. Bicycle lane photo devices may be activated  
13 at locations as determined by such department of transportation;  
14 provided, however, that there shall be no more than fifty bicycle lane  
15 photo devices located within such city.

16 2. The city of New York shall adopt and enforce measures to protect  
17 the privacy of drivers, passengers, pedestrians and cyclists whose iden-  
18 tity and identifying information may be captured by a bicycle lane photo  
19 device. Such measures shall include:

20 (i) utilization of necessary technologies to ensure, to the extent  
21 practicable, that images produced by a bicycle lane photo device shall

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

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1 not include images that identify the driver, the passengers, or the  
2 contents of the motor vehicle, provided, however, that no notice of  
3 liability issued pursuant to this section shall be dismissed solely  
4 because an image allows for the identification of the driver, the  
5 passengers or other contents of a motor vehicle;

6 (ii) a prohibition on the use or dissemination of motor vehicles'  
7 license plate information and other information and images captured by a  
8 bicycle lane photo device except: (A) as required to establish liability  
9 under this section or collect payment of penalties; (B) as required by  
10 court order; or (C) as otherwise required by law;

11 (iii) the installation of signage at regular intervals within  
12 protected bicycle lanes stating that bicycle lane photo devices are used  
13 to enforce restrictions on vehicular traffic in such bicycle lanes; and

14 (iv) oversight procedures to ensure compliance with the aforementioned  
15 privacy protection measures.

16 3. Bicycle lane photo devices shall only be operated on, within or in  
17 close proximity to protected bicycle lanes. Warning notices of  
18 violation will be issued during the first sixty days that bicycle lane  
19 photo devices are operated on, within or in close proximity to each  
20 protected bicycle lane in the bicycle lane safety program.

21 (b) If the city of New York has established a bicycle lane safety  
22 program pursuant to subdivision (a) of this section, the owner of a  
23 motor vehicle shall be liable for a penalty imposed pursuant to this  
24 section if such motor vehicle was used or operated with the permission  
25 of the owner, express or implied, in violation of any bicycle lane  
26 restrictions that apply to protected bicycle lanes within such program,  
27 and such violation is evidenced by information obtained from a bicycle  
28 lane photo device; provided, however, that no owner of a motor vehicle  
29 shall be liable for a penalty imposed pursuant to this section where the  
30 operator of such motor vehicle has been convicted of the underlying  
31 violation of any bicycle lane restrictions.

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. "bicycle lane" shall have the meaning provided in article one of  
37 this chapter.

38 3. "bicycle lane photo device" shall mean a device that is capable of  
39 operating independently of an enforcement officer and produces one or  
40 more images of each motor vehicle at the time it is in violation of any  
41 bicycle lane restriction.

42 4. "bicycle lane restriction" shall mean a restriction on the use of a  
43 designated traffic lane by motor vehicles other than bicycles imposed on  
44 any roadway or bicycle lane by local law and signs erected by the New  
45 York city department of transportation.

46 5. "bicycle lane safety program" shall mean any roadway designated by  
47 the New York city department of transportation that operates on or adja-  
48 cent to any protected bicycle lane and that may include upgraded  
49 signage, enhanced road markings, traffic signal priority for bicycles,  
50 and any other enhancement that increases the safety of cyclists.

51 6. "protected bicycle lane" shall mean a bicycle lane that is desig-  
52 nated for the exclusive use of bicycles and is designated as part of the  
53 bicycle lane safety program as determined by the New York city depart-  
54 ment of transportation. Protected bicycle lane shall include any bicy-  
55 cle lane which is physically separated from the roadway by curbing,  
56 bollards, or other other barrier.

1 (d) A certificate, sworn to or affirmed by a technician employed by  
2 the city of New York in which the charged violation occurred, or a  
3 facsimile thereof, based upon inspection of photographs, microphoto-  
4 graphs, videotape or other recorded images produced by a bicycle lane  
5 photo device, shall be prima facie evidence of the facts contained ther-  
6 ein. Any photographs, microphotographs, videotape or other recorded  
7 images evidencing such a violation shall be available for inspection in  
8 any proceeding to adjudicate the liability for such violation pursuant  
9 to this section.

10 (e) An owner liable for a violation of a bicycle lane restriction  
11 imposed on any roadway within the bicycle lane safety program shall be  
12 liable for monetary penalties in accordance with a schedule of fines and  
13 penalties promulgated by the parking violations bureau of the city of  
14 New York; provided, however, that the monetary penalty for violating a  
15 bicycle lane restriction shall not exceed fifty dollars; provided,  
16 further, that an owner shall be liable for an additional penalty not to  
17 exceed twenty-five dollars for each violation for the failure to respond  
18 to a notice of liability within the prescribed time period.

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

24 (g) 1. A notice of liability shall be sent by first class mail to each  
25 person alleged to be liable as an owner for a violation of a bicycle  
26 lane restriction. Personal delivery to the owner shall not be required.  
27 A manual or automatic record of mailing prepared in the ordinary course  
28 of business shall be prima facie evidence of the facts contained there-  
29 in.

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 a bicycle  
32 lane restriction, the registration number of the motor vehicle involved  
33 in such violation, the location where such violation took place includ-  
34 ing the street address or cross streets, one or more images identifying  
35 the violation, the date and time of such violation and the identifica-  
36 tion number of the bicycle lane photo device which recorded the  
37 violation or other document locator number.

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

44 4. The notice of liability shall be prepared and mailed by the agency  
45 or agencies designated by the city of New York, or any other entity  
46 authorized by such city to prepare and mail such notification of  
47 violation.

48 5. Adjudication of the liability imposed upon owners by this section  
49 shall be by the New York city parking violations bureau.

50 (h) If an owner of a motor vehicle receives a notice of liability  
51 pursuant to this section for any time period during which such motor  
52 vehicle was reported to the police department as having been stolen, it  
53 shall be a valid defense to an allegation of liability for a violation  
54 of a bicycle lane restriction that the motor vehicle had been reported  
55 to the police as stolen prior to the time the violation occurred and had  
56 not been recovered by such time. For purposes of asserting the defense

1 provided by this subdivision it shall be sufficient that a certified  
2 copy of the police report on the stolen motor vehicle be sent by first  
3 class mail to the New York city parking violations bureau.

4 (i) 1. An owner who is a lessor of a motor vehicle to which a notice  
5 of liability was issued pursuant to subdivision (g) of this section  
6 shall not be liable for the violation of a bicycle lane restriction,  
7 provided that:

8 (i) prior to the violation, the lessor has filed with such parking  
9 violations bureau in accordance with the provisions of section two  
10 hundred thirty-nine of this chapter, and

11 (ii) within thirty-seven days after receiving notice from such bureau  
12 of the date and time of a liability, together with the other information  
13 contained in the original notice of liability, the lessor submits to  
14 such bureau the correct name and address of the lessee of the motor  
15 vehicle identified in the notice of liability at the time of such  
16 violation, together with such other additional information contained in  
17 the rental, lease or other contract document, as may be reasonably  
18 required by such bureau pursuant to regulations that may be promulgated  
19 for such purpose.

20 2. Failure to comply with subparagraph (ii) of paragraph one of this  
21 subdivision shall render the lessor liable for the penalty prescribed in  
22 this section.

23 3. Where the lessor complies with the provisions of paragraph one of  
24 this subdivision, the lessee of such motor vehicle on the date of such  
25 violation shall be deemed to be the owner of such motor vehicle for  
26 purposes of this section, shall be subject to liability for such  
27 violation pursuant to this section and shall be sent a notice of liabil-  
28 ity pursuant to subdivision (g) of this section.

29 (j) If the owner liable for a violation of a bicycle lane restriction  
30 was not the operator of the motor vehicle at the time of the violation,  
31 the owner may maintain an action for indemnification against the opera-  
32 tor.

33 (k) Nothing in this section shall be construed to limit the liability  
34 of an operator of a motor vehicle for any violation of bicycle lane  
35 restrictions.

36 (l) If the city of New York adopts a bicycle lane safety program  
37 pursuant to subdivision (a) of this section, it shall submit a report on  
38 the results of the use of bicycle lane photo devices to the governor,  
39 the temporary president of the senate and the speaker of the assembly  
40 within two years of the adoption of such bicycle lane safety program and  
41 every two years thereafter. Such report shall include, but not be limit-  
42 ed to:

43 1. a description of the locations where bicycle lane photo devices  
44 were used;

45 2. the total number of violations recorded on a monthly and annual  
46 basis;

47 3. the total number of notices of liability issued;

48 4. the number of fines and total amount of fines paid after the first  
49 notice of liability;

50 5. the number of violations adjudicated and results of such adjudi-  
51 cations including breakdowns of dispositions made;

52 6. the total amount of revenue realized by the city of New York;

53 7. the quality of the adjudication process and its results;

54 8. the total number of bicycle lane photo devices by type of device;

55 9. the total cost to the city of New York; and

1 10. a detailed report on the number accidents involving cyclists in  
2 protected bicycle lanes before and after implementation of the bicycle  
3 lane safety program, including current statistics.

4 (m) Any revenue from fines and penalties collected pursuant to this  
5 section from a bicycle lane photo device that was authorized to be  
6 installed and used pursuant to this section shall be remitted by the  
7 city of New York to the New York city department of transportation on a  
8 quarterly basis to be deposited in the general transportation account of  
9 the New York city transportation assistance fund established pursuant to  
10 section twelve hundred seventy-i of the public authorities law.

11 § 2. This act shall take effect on the ninetieth day after it shall  
12 have become a law and shall expire 5 years after such date when upon  
13 such date the provisions of this act shall be deemed repealed. Effective  
14 immediately the addition, amendment and/or repeal of any rule or regu-  
15 lation necessary for the implementation of this act on its effective  
16 date are authorized to be made on or before such date.