STATE OF NEW YORK

313

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to limiting the transport of an arrested, detained or apprehended person in an unmarked police vehicle or concealed identity police vehicle and the use of such vehicles for stops and searches

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

Section 1. The civil rights law is amended by adding a new section 73-a to read as follows:

§ 73-a. Use of unmarked police vehicle for stop and search or transport of arrested, detained or apprehended person. 1. No person shall be transported in an unmarked police vehicle or a concealed identity police vehicle after being arrested, detained or apprehended by a police officer or peace officer of a governmental entity who is not wearing his or her police uniform unless an officer in uniform from the same governmental entity is present for the duration of the transport.

2. No person shall be stopped and searched by a police officer or peace officer of a governmental entity who is travelling in an unmarked police vehicle or a concealed identity police vehicle unless such officer is wearing his or her police uniform or is accompanied by an officer in uniform from the same governmental entity and such uniformed officer is present for the duration of the stop and the search.

3. A police vehicle shall be deemed to be unmarked or have a concealed identity unless it is equipped with:

(a) lights as authorized by subdivision forty-one of section three hundred seventy-five of the vehicle and traffic law, which are displayed and visible;

(b) a horn, siren, electronic device, or exhaust whistle from which audible signals are sounded; and

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

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(c) an insignia identifying such vehicle as a police vehicle as defined by this section.

4. Upon a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction and, upon at least five days notice to the defendant, to enjoin and restrain the continuance of such violations. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

5. For the purposes of this section:

(a) "governmental entity" means the state, a public authority, a police district, a county, town, city, or village;

(b) "police officer" means a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law;

(c) "peace officer" means a peace officer as defined in section 2.10 of the criminal procedure law; and

(d) "police vehicle" means every vehicle for which the state, a public authority, a police district, a county, town, city, or village is the owner and which is operated by the police department or law enforcement agency of such governmental unit or by a constable or police constable of a town when acting pursuant to his or her special duties.

§ 2. This act shall take effect immediately.