

# STATE OF NEW YORK

5865

2021-2022 Regular Sessions

## IN SENATE

March 19, 2021

Introduced by Sen. PALUMBO -- 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 allowing a department of motor vehicles employee to employ an attorney-at-law to defend against certain civil actions

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 224-b to read as follows:

3 § 224-b. Actions and proceedings in official employment capacity. 1.  
4 Notwithstanding any inconsistent provision of law, a department of motor  
5 vehicles employee may employ an attorney-at-law to defend any civil  
6 action or proceeding brought against him or her in his or her official  
7 capacity as an agent of the commissioner.

8 2. All damages recovered against, or costs and expenses lawfully  
9 incurred by an employee of the department of motor vehicles, including  
10 attorney's fees, in the defense of a civil action or proceeding brought  
11 against such employee in his or her capacity as an agent of the commis-  
12 sioner for an official act done, or for failure to perform an official  
13 act, shall be a state charge and shall be audited and paid in the same  
14 manner as state charges. When the act upon which the action or proceed-  
15 ing is based was done in good faith, but without the authority of law or  
16 authorization by the commissioner, the state comptroller may audit and  
17 pay the same as state charges, even if such action or proceeding was  
18 initiated against the employee by the commissioner.

19 3. No proceeding or investigation for the termination of a department  
20 of motor vehicles employee shall be undertaken or directed to be under-  
21 taken against such employee on the basis of an action, or failure to  
22 act, of such employee, if done in good faith and with a reasonable  
23 belief that such employee is defending, protecting and upholding the  
24 constitution or laws of the United States or of this state, even if it  
25 is subsequently determined that such action or inaction was without  
26 authority of law or without express authorization.

27 § 2. This act shall take effect immediately.

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

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