

STATE OF NEW YORK

153

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. KRUEGER -- 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 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

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

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1 bus to capture images of vehicles operated in violation of bus opera-
2 tion-related traffic regulations, and images produced by such device
3 shall not be used for any other purpose in the absence of a court order
4 requiring such images to be produced.

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

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

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

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

21 (ii) as required by court order;

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

24 (iv) as otherwise required by law.

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

31 4. oversight procedures to ensure compliance with the privacy
32 protection measures under this subdivision.

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

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

44 (f) For purposes of this section the following terms shall have the
45 following meanings:

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

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

52 3. "bus operation-related traffic regulations" shall mean the
53 restrictions set forth in chapter four of title thirty-four of the rules
54 of the city of New York affecting bus operations including but not
55 limited to the following: 4-08(f)(4), general no standing zones, bus
56 lanes; 4-08(c)(3), violation of posted no standing rules prohibited, bus

1 stop; 4-08(f)(1), general no standing zones, double parking; 4-08(k)(2),
2 special rules for commercial vehicles, no standing except trucks loading
3 and unloading; 4-07(b)(1), obstruction of traffic, traffic lane;
4 4-08(e)(11), general no stopping zones, major roadways; 4-08(e)(4),
5 general no stopping zones, intersections; 4-08(e)(5), general no stop-
6 ping zones, crosswalks; 4-08(e)(12), general no stopping zones,
7 obstructing traffic at intersection; and 4-05, turns; and 4-07(h)(2),
8 driving on divided highways, U-turns.

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

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

18 6. "manual on uniform traffic control devices" or "MUTCD" means the
19 manual and specifications for a uniform system of traffic control
20 devices maintained by the commissioner of transportation pursuant to
21 section sixteen hundred eighty of this chapter.

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

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

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

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

1 2. A notice of liability pursuant to this section shall contain the
2 name and address of the person alleged to be liable as an owner for a
3 violation, the registration number of the vehicle involved in such
4 violation, the location where such violation took place including the
5 street address or cross streets, one or more images identifying the
6 violation, the date and time of such violation, the identification
7 number of the photo device which recorded the violation or other docu-
8 ment locator number, and whether the device was stationary or mobile. If
9 the photo device was mobile, an identity of the vehicle containing such
10 photo device shall be included in the notice.

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

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

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

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

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

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

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

52 2. Where the lessor complies with the provisions of subparagraph (i)
53 of paragraph one of this subdivision, the lessee of such vehicle on the
54 date of such violation shall be deemed to be the owner of such vehicle
55 for purposes of this section, shall be subject to liability for such

1 violation pursuant to this section and shall be sent a notice of liability
2 pursuant to subdivision (j) of this section.

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

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

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

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

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

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

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

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

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

27 7. the quality of the adjudication process under this section and its
28 results;

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

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

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

39 § 2. The opening paragraph of section 14 of part II of chapter 59 of
40 the laws of 2010, amending the vehicle and traffic law and the public
41 officers law relating to establishing a bus rapid transit demonstration
42 program to restrict the use of bus lanes by means of bus lane photo
43 devices, as amended by section 2 of part D of chapter 39 of the laws of
44 2019, is amended to read as follows:

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

50 § 3. Subdivision 1 of section 235 of the vehicle and traffic law, as
51 separately added by chapters 421, 460 and 773 of the laws of 2021, para-
52 graph (h) as added by chapter 421 of the laws of 2021 and as relettered
53 by chapter 258 of the laws of 2022, is amended to read as follows:

54 1. Notwithstanding any inconsistent provision of any general, special
55 or local law or administrative code to the contrary, in any city which
56 heretofore or hereafter is authorized to establish an administrative

1 tribunal: (a) to hear and determine complaints of traffic infractions
2 constituting parking, standing or stopping violations, or (b) to adjudi-
3 cate the liability of owners for violations of subdivision (d) of
4 section eleven hundred eleven of this chapter imposed pursuant to a
5 local law or ordinance imposing monetary liability on the owner of a
6 vehicle for failure of an operator thereof to comply with traffic-con-
7 trol indications through the installation and operation of traffic-con-
8 trol signal photo violation-monitoring systems, in accordance with arti-
9 cle twenty-four of this chapter, or (c) to adjudicate the liability of
10 owners for violations of subdivision (b), (c), (d), (f) or (g) of
11 section eleven hundred eighty of this chapter imposed pursuant to a
12 demonstration program imposing monetary liability on the owner of a
13 vehicle for failure of an operator thereof to comply with such posted
14 maximum speed limits through the installation and operation of photo
15 speed violation monitoring systems, in accordance with article thirty of
16 this chapter, or (d) to adjudicate the liability of owners for
17 violations of bus lane restrictions as defined by article twenty-four of
18 this chapter imposed pursuant to a bus rapid transit program imposing
19 monetary liability on the owner of a vehicle for failure of an operator
20 thereof to comply with such bus lane restrictions through the installa-
21 tion and operation of bus lane photo devices, in accordance with article
22 twenty-four of this chapter, or (e) to adjudicate the liability of
23 owners for violations of toll collection regulations imposed by certain
24 public authorities pursuant to the law authorizing such public authori-
25 ties to impose monetary liability on the owner of a vehicle for failure
26 of an operator thereof to comply with toll collection regulations of
27 such public authorities through the installation and operation of
28 photo-monitoring systems, in accordance with the provisions of section
29 two thousand nine hundred eighty-five of the public authorities law and
30 sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred
31 seventy-four of the laws of nineteen hundred fifty, or (f) to adjudicate
32 the liability of owners for violations of section eleven hundred seven-
33 ty-four of this chapter when meeting a school bus marked and equipped as
34 provided in subdivisions twenty and twenty-one-c of section three
35 hundred seventy-five of this chapter imposed pursuant to a local law or
36 ordinance imposing monetary liability on the owner of a vehicle for
37 failure of an operator thereof to comply with school bus red visual
38 signals through the installation and operation of school bus photo
39 violation monitoring systems, in accordance with article twenty-nine of
40 this chapter, or (g) to adjudicate the liability of owners for
41 violations of section three hundred eighty-five of this chapter and the
42 rules of the department of transportation of the city of New York in
43 relation to gross vehicle weight and/or axle weight violations imposed
44 pursuant to a weigh in motion demonstration program imposing monetary
45 liability on the owner of a vehicle for failure of an operator thereof
46 to comply with such gross vehicle weight and/or axle weight restrictions
47 through the installation and operation of weigh in motion violation
48 monitoring systems, in accordance with article ten of this chapter, or
49 (h) to adjudicate the liability of owners for violations of subdivision
50 (b), (d), (f) or (g) of section eleven hundred eighty of this chapter
51 imposed pursuant to a demonstration program imposing monetary liability
52 on the owner of a vehicle for failure of an operator thereof to comply
53 with such posted maximum speed limits within a highway construction or
54 maintenance work area through the installation and operation of photo
55 speed violation monitoring systems, in accordance with article thirty of
56 this chapter, or (i) to adjudicate the liability of owners for any other

1 violation of a bus operation-related traffic regulation, in accordance
2 with article twenty-four of this chapter, such tribunal and the rules
3 and regulations pertaining thereto shall be constituted in substantial
4 conformance with the following sections.

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