

STATE OF NEW YORK

7026

2023-2024 Regular Sessions

IN SENATE

May 16, 2023

Introduced by Sen. STEWART-COUSINS -- 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 adjudications and owner liability for a violation of traffic-control signal indications in the county of Westchester; to amend the public officers law, in relation to accessing records; and providing for the repeal of certain 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
4 traffic-control indications. (a) 1. Notwithstanding any other provision
5 of law, the county of Westchester is hereby authorized and empowered to
6 adopt and amend a local law or ordinance establishing a demonstration
7 program imposing monetary liability on the owner of a vehicle for fail-
8 ure of an operator thereof to comply with traffic-control indications in
9 such county in accordance with the provisions of this section. Such
10 demonstration program shall empower such county to install and operate
11 traffic-control signal photo violation-monitoring devices at no more
12 than fifty intersections within and under the jurisdiction of such coun-
13 ty at any one time.

14 2. Such demonstration program shall utilize necessary technologies to
15 ensure, to the extent practicable, that photographs produced by such
16 traffic-control signal photo violation-monitoring systems shall not
17 include images that identify the driver, the passengers, or the contents
18 of the vehicle. Provided, however, that no notice of liability issued
19 pursuant to this section shall be dismissed solely because a photograph
20 or photographs allow for the identification of the contents of a vehi-
21 cle, provided that such county has made a reasonable effort to comply
22 with the provisions of this paragraph.

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

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1 (b) In any such county which has adopted a local law or ordinance
2 pursuant to subdivision (a) of this section, the owner of a vehicle
3 shall be liable for a penalty imposed pursuant to this section if such
4 vehicle was used or operated with the permission of the owner, express
5 or implied, in violation of subdivision (d) of section eleven hundred
6 eleven of this article, and such violation is evidenced by information
7 obtained from a traffic-control signal photo violation-monitoring
8 system; provided however that no owner of a vehicle shall be liable for
9 a penalty imposed pursuant to this section where the operator of such
10 vehicle has been convicted of the underlying violation of subdivision
11 (d) of section eleven hundred eleven of this article.

12 (c) For purposes of this section, "owner" shall have the meaning
13 provided in article two-B of this chapter. For purposes of this section,
14 "traffic-control signal photo violation-monitoring system" shall mean a
15 vehicle sensor installed to work in conjunction with a traffic-control
16 signal which automatically produces two or more photographs, two or more
17 microphotographs, a videotape or other recorded images of each vehicle
18 at the time it is used or operated in violation of subdivision (d) of
19 section eleven hundred eleven of this article.

20 (d) A certificate, sworn to or affirmed by a technician employed by
21 Westchester county in which the charged violation occurred, or a facsim-
22 ile thereof, based upon inspection of photographs, microphotographs,
23 videotape or other recorded images produced by a traffic-control signal
24 photo violation-monitoring system, shall be prima facie evidence of the
25 facts contained therein. Any photographs, microphotographs, videotape
26 or other recorded images evidencing such a violation shall be available
27 for inspection in any proceeding to adjudicate the liability for such
28 violation pursuant to a local law or ordinance adopted pursuant to this
29 section.

30 (e) An owner liable for a violation of subdivision (d) of section
31 eleven hundred eleven of this article pursuant to a local law or ordi-
32 nance adopted pursuant to this section shall be liable for monetary
33 penalties in accordance with a schedule of fines and penalties to be set
34 forth in such local law or ordinance. The liability of the owner pursu-
35 ant to this section shall not exceed fifty dollars for each violation;
36 provided, however, that such local law or ordinance may provide for an
37 additional penalty not in excess of twenty-five dollars for each
38 violation for the failure to respond to a notice of liability within the
39 prescribed time period.

40 (f) An imposition of liability under a local law or ordinance adopted
41 pursuant to this section shall not be deemed a conviction as an operator
42 and shall not be made part of the operating record of the person upon
43 whom such liability is imposed nor shall it be used for insurance
44 purposes in the provision of motor vehicle insurance coverage.

45 (g) 1. A notice of liability shall be sent by first class mail to each
46 person alleged to be liable as an owner for a violation of subdivision
47 (d) of section eleven hundred eleven of this article pursuant to this
48 section. Personal delivery on the owner shall not be required. A manual
49 or automatic record of mailing prepared in the ordinary course of busi-
50 ness shall be prima facie evidence of the facts contained therein.

51 2. A notice of liability shall contain the name and address of the
52 person alleged to be liable as an owner for a violation of subdivision
53 (d) of section eleven hundred eleven of this article pursuant to this
54 section, the registration number of the vehicle involved in such
55 violation, the location where such violation took place, the date and

1 time of such violation and the identification number of the camera which
2 recorded the violation or other document locator number.

3 3. The notice of liability shall contain information advising the
4 person charged of the manner and the time in which he or she may contest
5 the liability alleged in the notice. Such notice of liability shall also
6 contain a warning to advise the persons charged that failure to contest
7 in the manner and time provided shall be deemed an admission of liability
8 and that a default judgment may be entered thereon.

9 4. The notice of liability shall be prepared and mailed by Westchester
10 county or by any other entity authorized by such county to prepare and
11 mail such notification of violation.

12 (h) Adjudication of the liability imposed upon owners by this section
13 shall be by a traffic violations bureau established pursuant to section
14 three hundred seventy of the general municipal law where the violation
15 occurred or, if there be none, by the court having jurisdiction over
16 traffic infractions.

17 (i) If an owner receives a notice of liability pursuant to this
18 section for any time period during which the vehicle was reported to the
19 police department as having been stolen, it shall be a valid defense to
20 an allegation of liability for a violation of subdivision (d) of section
21 eleven hundred eleven of this article pursuant to this section that the
22 vehicle had been reported to the police as stolen prior to the time the
23 violation occurred and had not been recovered by such time. For purposes
24 of asserting the defense provided by this subdivision it shall be suffi-
25 cient that a certified copy of the police report on the stolen vehicle
26 be sent by first class mail to the court having jurisdiction.

27 (j) An owner who is a lessor of a vehicle to which a notice of liability
28 was issued pursuant to subdivision (g) of this section shall not be
29 liable for the violation of subdivision (d) of section eleven hundred
30 eleven of this article, provided that he or she sends to the court
31 having jurisdiction a copy of the rental, lease or other such contract
32 document covering such vehicle on the date of the violation, with the
33 name and address of the lessee clearly legible, within thirty-seven days
34 after receiving notice from the court of the date and time of such
35 violation, together with the other information contained in the original
36 notice of liability. Failure to send such information within such thirty-
37 seven day time period shall render the owner liable for the penalty
38 prescribed by this section. Where the lessor complies with the
39 provisions of this subdivision, the lessee of such vehicle on the date
40 of such violation shall be deemed to be the owner of such vehicle for
41 purposes of this section, shall be subject to liability for the
42 violation of subdivision (d) of section eleven hundred eleven of this
43 article pursuant to this section and shall be sent a notice of liability
44 pursuant to subdivision (g) of this section.

45 (k) 1. If the owner liable for a violation of subdivision (d) of
46 section eleven hundred eleven of this article pursuant to this section
47 was not the operator of the vehicle at the time of the violation, the
48 owner may maintain an action for indemnification against the operator.

49 2. Notwithstanding any other provision of this section, no owner of a
50 vehicle shall be subject to a monetary fine imposed pursuant to this
51 section if the operator of such vehicle was operating such vehicle with-
52 out the consent of the owner at the time such operator failed to obey a
53 traffic-control indication. For purposes of this subdivision there shall
54 be a presumption that the operator of such vehicle was operating such
55 vehicle with the consent of the owner at the time such operator failed
56 to obey a traffic-control indication.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.

(m) When a county has established a demonstration program pursuant to this section, all fines and penalties collected under such program shall be distributed in accordance with subdivision ten of section eighteen hundred three of this chapter.

(n) Any county that adopts a demonstration program pursuant to subdivision (a) of this section shall submit an annual report detailing the results of the use of such traffic-control signal photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand twenty-four and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where traffic-control signal photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the three years preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

4. the number of events and number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;

5. the number of notices of liability issued for violations recorded by such system at each intersection where a traffic-control signal photo violation-monitoring system is used;

6. the number of fines imposed and total amount of fines paid after first notice of liability;

7. the number and percentage of violations adjudicated and results of such adjudications including breakdowns of disposition made for violations recorded by such systems which shall be provided at least annually to such county by the respective courts and bureaus conducting such adjudications;

8. the total amount of revenue realized by such county from such adjudications including a breakdown of revenue realized by such county for each year since deployment of its traffic-control signal photo violation-monitoring system;

9. expenses incurred by such county in connection with the program; and

10. quality of the adjudication process and its results which shall be provided at least annually to such county by the respective courts and bureaus conducting such adjudications.

(o) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.

§ 2. Section 1803 of the vehicle and traffic law is amended by adding a new subdivision 13 to read as follows:

1 13. Notwithstanding the provisions of subdivision three of section
2 ninety-nine-a of the state finance law, where the county of Westchester
3 has established a demonstration program imposing monetary liability on
4 the owner of a vehicle for failure of an operator thereof to comply with
5 subdivision (d) of section eleven hundred eleven of this chapter in
6 accordance with section eleven hundred eleven-g of this chapter, any
7 fine or penalty collected by a court, judge, magistrate or other officer
8 for an imposition of liability which occurs within a town or village
9 within such county pursuant to such program shall be paid to the state
10 comptroller within the first ten days of the month following collection.
11 Every such payment shall be accompanied by a statement in such form and
12 detail as the comptroller shall provide. The comptroller shall pay
13 eighty percent of any such fine or penalty imposed for such liability to
14 the county of Westchester, and twenty percent of any such fine or penal-
15 ty to the town or village in which the violation giving rise to the
16 liability occurred. All fines, penalties and forfeitures paid to a town
17 or village pursuant to the provisions of this subdivision shall be cred-
18 ited to the general fund of such town or village, unless a different
19 disposition is prescribed by charter, special law, local law or ordi-
20 nance.

21 § 3. Subdivision 2 of section 87 of the public officers law is amended
22 by adding a new paragraph (t) to read as follows:

23 (t) are photographs, microphotographs, videotape or other recorded
24 images prepared under authority of section eleven hundred eleven-g of
25 the vehicle and traffic law.

26 § 4. The purchase or lease of equipment for a demonstration program
27 established pursuant to section 1111-g of the vehicle and traffic law
28 shall be subject to the provisions of section 103 of the general municip-
29 al law.

30 § 5. This act shall take effect on the thirtieth day after it shall
31 have become a law and shall expire and be deemed repealed on December 1,
32 2027, provided, further, that any such local law as may be enacted
33 pursuant to section one of this act shall remain in full force and
34 effect only until December 1, 2027.