

STATE OF NEW YORK

7064--B

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommended 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 -- 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 owner liability for failure of an operator to comply with stop signs in designated villages located within the counties of Nassau and Suffolk

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

1 Section 1. This act shall be known and may be cited as the "protect
2 our pedestrians (POP) act".

3 § 2. The vehicle and traffic law is amended by adding a new section
4 1174-b to read as follows:

5 § 1174-b. Owner liability for failure of operator to stop for a stop
6 sign in the village of Upper Brookville, the village of Flower Hill or
7 the village of East Hampton (each, a "village"). (a) Notwithstanding any
8 other provision of law, any village located within the county of Nassau
9 or the county of Suffolk is hereby authorized and empowered to adopt and
10 amend a local law or ordinance establishing a demonstration program
11 imposing monetary liability on the owner of a vehicle for failure of an
12 operator thereof to comply with subdivision (a) of section eleven
13 hundred seventy-two of this article. Such demonstration program shall
14 empower such village to install and operate stop sign photo violation
15 monitoring systems which may be stationary or mobile, and which may be
16 installed on stop signs within the boundaries of such village.

17 (b) Such demonstration program shall utilize necessary technologies to
18 ensure, to the extent practicable, that photographs produced by such
19 stop sign photo violation monitoring systems shall not include images

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

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1 that identify the driver, the passengers, or the contents of the vehi-
2 cle. Provided, however, that no notice of liability issued pursuant to
3 this section shall be dismissed solely because a photograph or photo-
4 graphs allow for the identification of the driver, passengers, or the
5 contents of a vehicle, provided that such village has made a reasonable
6 effort to comply with the provisions of this paragraph.

7 (c) In any such village which has adopted a local law or ordinance
8 pursuant to subdivision (a) of this section, the owner of a vehicle
9 shall be liable for a penalty imposed pursuant to this section if such
10 vehicle was used or operated with the permission of the owner, express
11 or implied, in violation of subdivision (a) of section eleven hundred
12 seventy-two of this article, and such violation is evidenced by informa-
13 tion obtained from a stop sign photo violation monitoring system.

14 (d) For purposes of this section, the following terms shall have the
15 following meanings:

16 1. "Owner" shall have the meaning as defined pursuant to section two
17 hundred thirty-nine of this chapter.

18 2. "Village" shall mean the village of Flower Hill, the village of
19 Upper Brookville or the village of East Hampton.

20 3. "Stop sign photo violation monitoring system" shall mean a vehicle
21 sensor installed to work in conjunction with a stop sign which automat-
22 ically produces two or more photographs, two or more microphotographs, a
23 videotape or other recorded images of each vehicle at the time it is
24 used or operated in violation of subdivision (a) of section eleven
25 hundred seventy-two of this article.

26 4. "Operator" means any person, corporation, firm, partnership, agen-
27 cy, association, organization or lessee that uses or operates a vehicle
28 with or without the permission of the owner, and an owner who operates
29 such owner's own vehicle.

30 (e) A certificate, sworn to or affirmed by a technician employed by
31 the village in which the charged violation occurred, or a facsimile
32 thereof, based upon inspection of photographs, microphotographs, vide-
33 otape or other recorded images produced by a stop sign photo violation
34 monitoring system, shall be prima facie evidence of the facts contained
35 therein. Any photographs, microphotographs, videotape or other recorded
36 images evidencing such a violation shall be available for inspection in
37 any proceeding to adjudicate the liability for such violation pursuant
38 to a local law or ordinance adopted pursuant to this section.

39 (f) An owner liable for a violation of subdivision (a) of section
40 eleven hundred seventy-two of this article pursuant to a local law or
41 ordinance adopted pursuant to this section shall be liable for monetary
42 penalties in accordance with a schedule of fines and penalties to be set
43 forth in such local law or ordinance. The liability of the owner pursu-
44 ant to this section shall not exceed fifty dollars for each violation;
45 provided, however, that such local law or ordinance may provide for an
46 additional penalty not in excess of twenty-five dollars for each
47 violation for the failure to respond to a notice of liability within the
48 prescribed time period.

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

54 (h) 1. A notice of liability shall be sent by first class mail to each
55 person alleged to be liable as an owner for a violation of subdivision
56 (a) of section eleven hundred seventy-two of this article pursuant to

1 this section. Personal delivery on the owner shall not be required. A
2 manual or automatic record of mailing prepared in the ordinary course of
3 business shall be prima facie evidence of the facts contained therein.

4 2. A notice of liability shall contain the name and address of the
5 person alleged to be liable as an owner for a violation of subdivision
6 (a) of section eleven hundred seventy-two of this article pursuant to
7 this section, the registration number of the vehicle involved in such
8 violation, the location where such violation took place, the date and
9 time of such violation and the identification number of the camera which
10 recorded the violation or other document locator number.

11 3. The notice of liability shall contain information advising the
12 person charged of the manner and the time in which such person may
13 contest the liability alleged in the notice. Such notice of liability
14 shall also contain a warning to advise the persons charged that failure
15 to contest in the manner and time provided shall be deemed an admission
16 of liability and that a default judgment may be entered thereon.

17 4. The notice of liability shall be prepared and mailed by the village
18 where the alleged violation occurred or by any other entity authorized
19 by such village to prepare and mail such notification of violation.

20 (i) Adjudication of the liability imposed upon owners by this section
21 shall be by the court having jurisdiction over traffic infractions.

22 (j) If an owner receives a notice of liability pursuant to this
23 section for any time period during which the vehicle was reported to the
24 police department as having been stolen, it shall be a valid defense to
25 an allegation of liability for a violation of subdivision (a) of section
26 eleven hundred seventy-two of this article pursuant to this section that
27 the vehicle had been reported to the police as stolen prior to the time
28 the violation occurred and had not been recovered by such time. For
29 purposes of asserting the defense provided by this subdivision, it shall
30 be sufficient that a certified copy of the police report on the stolen
31 vehicle be sent by first class mail to the traffic violations bureau or
32 court having jurisdiction.

33 (k) An owner who is a lessor of a vehicle to which a notice of liabil-
34 ity was issued pursuant to subdivision (h) of this section shall not be
35 liable for the violation of subdivision (a) of section eleven hundred
36 seventy-two of this article, provided that such owner sends to the traf-
37 fic violations bureau or court having jurisdiction a copy of the rental,
38 lease or other such contract document covering such vehicle on the date
39 of the violation, with the name and address of the lessee clearly legi-
40 ble, within thirty-seven days after receiving notice from the bureau or
41 court of the date and time of such violation, together with the other
42 information contained in the original notice of liability. Failure to
43 send such information within such thirty-seven day time period shall
44 render the owner liable for the penalty prescribed by this section.
45 Where the lessor complies with the provisions of this subdivision, the
46 lessee of such vehicle on the date of such violation shall be deemed to
47 be the owner of such vehicle for purposes of this section, shall be
48 subject to liability for the violation of subdivision (a) of section
49 eleven hundred seventy-two of this article pursuant to this section and
50 shall be sent a notice of liability pursuant to subdivision (h) of this
51 section.

52 (l) 1. If the owner liable for a violation of subdivision (a) of
53 section eleven hundred seventy-two of this article pursuant to this
54 section was not the operator of the vehicle at the time of the
55 violation, the owner may maintain an action for indemnification against
56 the operator.

1 2. Notwithstanding any other provision of this section, no owner of a
2 vehicle shall be subject to a monetary fine imposed pursuant to this
3 section if the operator of such vehicle was operating such vehicle with-
4 out the consent of the owner at the time such operator failed to obey a
5 stop sign. For purposes of this subdivision there shall be a presumption
6 that the operator of such vehicle was operating such vehicle with the
7 consent of the owner at the time such operator failed to obey a stop
8 sign.

9 (m) Nothing in this section shall be construed to limit the liability
10 of an operator of a vehicle for any violation of subdivision (a) of
11 section eleven hundred seventy-two of this article.

12 (n) Any village that adopts a demonstration program pursuant to subdi-
13 vision (a) of this section shall submit an annual report detailing the
14 results of the use of such stop sign photo violation monitoring system
15 to the governor, the temporary president of the senate and the speaker
16 of the assembly on or before the first day of June next succeeding the
17 effective date of this section and on the same date in each succeeding
18 year in which the demonstration program is operable. Such report shall
19 include, but not be limited to:

20 1. a description of the locations where stop sign photo violation
21 monitoring systems were used;

22 2. the aggregate number, type and severity of accidents reported at
23 intersections where a stop sign photo violation monitoring system is
24 used for the three years preceding the installation of such system, to
25 the extent the information is maintained by the department;

26 3. the aggregate number, type and severity of accidents reported at
27 intersections where a stop sign photo violation monitoring system is
28 used for the reporting year, as well as for each year that the stop sign
29 photo violation monitoring system has been operational, to the extent
30 the information is maintained by the department;

31 4. the number of events and number of violations recorded at each
32 intersection where a stop sign photo violation monitoring system is used
33 and in the aggregate on a daily, weekly and monthly basis;

34 5. the number of notices of liability issued for violations recorded
35 by such system at each intersection where a stop sign photo violation
36 monitoring system is used;

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

39 7. the number and percentage of violations adjudicated and results of
40 such adjudications including breakdowns of dispositions made for
41 violations recorded by such systems which shall be provided at least
42 annually to such village by the respective courts and bureaus conducting
43 such adjudications;

44 8. the total amount of revenue realized by such village from such
45 adjudications including a breakdown of revenue realized by such village
46 for each year since deployment of its stop sign photo violation monitor-
47 ing system;

48 9. expenses incurred by such village in connection with the program;
49 and

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

53 § 3. This act shall take effect on the ninetieth day after it shall
54 have become a law.