

# STATE OF NEW YORK

2610

2023-2024 Regular Sessions

## IN ASSEMBLY

January 26, 2023

Introduced by M. of A. HYNDMAN -- read once and referred 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  
19 bus to capture images of vehicles operated in violation of bus opera-

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

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

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

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

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

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

20 (ii) as required by court order;

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

23 (iv) as otherwise required by law.

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

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

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

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

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

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

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

51 3. "bus operation-related traffic regulations" shall mean the  
52 restrictions set forth in chapter four of title thirty-four of the rules  
53 of the city of New York affecting bus operations including but not  
54 limited to the following: 4-08(f)(4), general no standing zones, bus  
55 lanes; 4-08(c)(3), violation of posted no standing rules prohibited, bus  
56 stop; 4-08(f)(1), general no standing zones, double parking; 4-08(k)(2),

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

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

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

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

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

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

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

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

55 2. A notice of liability pursuant to this section shall contain the  
56 name and address of the person alleged to be liable as an owner for a

1 violation, the registration number of the vehicle involved in such  
2 violation, the location where such violation took place including the  
3 street address or cross streets, one or more images identifying the  
4 violation, the date and time of such violation, the identification  
5 number of the photo device which recorded the violation or other docu-  
6 ment locator number, and whether the device was stationary or mobile. If  
7 the photo device was mobile, an identity of the vehicle containing such  
8 photo device shall be included in the notice.

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

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

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

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

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

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

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

50 2. Where the lessor complies with the provisions of subparagraph (i)  
51 of paragraph one of this subdivision, the lessee of such vehicle on the  
52 date of such violation shall be deemed to be the owner of such vehicle  
53 for purposes of this section, shall be subject to liability for such  
54 violation pursuant to this section and shall be sent a notice of liabil-  
55 ity pursuant to subdivision (j) of this section.

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

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

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

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

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

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

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

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

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

25 7. the quality of the adjudication process under this section and its  
26 results;

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

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

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

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

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

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

52 1. Notwithstanding any inconsistent provision of any general, special  
53 or local law or administrative code to the contrary, in any city which  
54 heretofore or hereafter is authorized to establish an administrative  
55 tribunal: (a) to hear and determine complaints of traffic infractions  
56 constituting parking, standing or stopping violations, or (b) to adjudi-

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

1 and regulations pertaining thereto shall be constituted in substantial  
2 conformance with the following sections.  
3 § 4. This act shall take effect immediately; provided that section one  
4 of this act shall take effect one year after it shall have become a law.  
5 Effective immediately, the addition, amendment and/or repeal of any rule  
6 or regulation necessary for the implementation of this act on its effec-  
7 tive date are authorized to be made and completed on or before such  
8 effective date.