

STATE OF NEW YORK

6687--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 1, 2023

Introduced by M. of A. MAGNARELLI -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to authorizing the city of Syracuse to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The vehicle and traffic law is amended by adding a new section 1180-f to read as follows:

§ 1180-f. Owner liability for failure of operator to comply with certain posted maximum speed limits. (a) 1. Notwithstanding any other provision of law, the city of Syracuse is hereby authorized to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a school speed zone within such city (i) when a school speed limit is in effect as provided in paragraphs one and two of subdivision (c) of section eleven hundred eighty of this article or (ii) when other speed limits are in effect as provided in subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this article during the following times: (A) on school days during school hours and one hour before and one hour after the school day, and (B) a period during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. Such demonstration program shall empower the city of Syracuse to install photo speed violation monitoring systems within no more than thirty-four school speed zones within such city at any one time and to operate such systems within such zones (iii) when a school speed limit

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

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1 is in effect as provided in paragraphs one and two of subdivision (c) of
2 section eleven hundred eighty of this article or (iv) when other speed
3 limits are in effect as provided in subdivision (b), (d), (f) or (g) of
4 section eleven hundred eighty of this article during the following
5 times: (A) on school days during school hours and one hour before and
6 one hour after the school day, and (B) a period during student activ-
7 ities at the school and up to thirty minutes immediately before and up
8 to thirty minutes immediately after such student activities. In select-
9 ing a school speed zone in which to install and operate a photo speed
10 violation monitoring system, the city shall consider criteria including,
11 but not limited to, the speed data, crash history, and the roadway geom-
12 etry applicable to such school speed zone.

13 2. No photo speed violation monitoring system shall be used in a
14 school speed zone unless (i) on the day it is to be used it has success-
15 fully passed a self-test of its functions; and (ii) it has undergone an
16 annual calibration check performed pursuant to paragraph four of this
17 subdivision. The city shall install signs giving notice that a photo
18 speed violation monitoring system is in use to be mounted on advance
19 warning signs notifying motor vehicle operators of such upcoming school
20 speed zone and/or on speed limit signs applicable within such school
21 speed zone, in conformance with standards established in the MUTCD.

22 3. Operators of photo speed violation monitoring systems shall have
23 completed training in the procedures for setting up, testing, and oper-
24 ating such systems. Each such operator shall complete and sign a daily
25 set-up log for each such system that he or she operates that (i) states
26 the date and time when, and the location where, the system was set up
27 that day, and (ii) states that such operator successfully performed, and
28 the system passed, the self-tests of such system before producing a
29 recorded image that day. The city shall retain each such daily log until
30 the later of the date on which the photo speed violation monitoring
31 system to which it applies has been permanently removed from use or the
32 final resolution of all cases involving notices of liability issued
33 based on photographs, microphotographs, videotape or other recorded
34 images produced by such system.

35 4. Each photo speed violation monitoring system shall undergo an annu-
36 al calibration check performed by an independent calibration laboratory
37 which shall issue a signed certificate of calibration. The city shall
38 keep each such annual certificate of calibration on file until the final
39 resolution of all cases involving a notice of liability issued during
40 such year which were based on photographs, microphotographs, videotape
41 or other recorded images produced by such photo speed violation monitor-
42 ing system.

43 5. (i) Such demonstration program shall utilize necessary technologies
44 to ensure, to the extent practicable, that photographs, microphoto-
45 graphs, videotape or other recorded images produced by such photo speed
46 violation monitoring systems shall not include images that identify the
47 driver, the passengers, or the contents of the vehicle. Provided,
48 however, that no notice of liability issued pursuant to this section
49 shall be dismissed solely because such a photograph, microphotograph,
50 videotape or other recorded image allows for the identification of the
51 driver, the passengers, or the contents of vehicles where the city shows
52 that it made reasonable efforts to comply with the provisions of this
53 paragraph in such case.

54 (ii) Photographs, microphotographs, videotape or any other recorded
55 image from a photo speed violation monitoring system shall be for the
56 exclusive use of the city for the purpose of the adjudication of liabil-

ity imposed pursuant to this section and of the owner receiving a notice of liability pursuant to this section, and shall be destroyed by the city upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images relate, or one year following the date of issuance of such notice of liability, whichever is later. Notwithstanding the provisions of any other law, rule or regulation to the contrary, photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of liability issued pursuant to this section, and no public entity or employee, officer or agent thereof shall disclose such information, except that such photographs, microphotographs, videotape or any other recorded images from such systems:

(A) shall be available for inspection and copying and use by the motor vehicle owner and operator for so long as such photographs, microphotographs, videotape or other recorded images are required to be maintained or are maintained by such public entity, employee, officer or agent; and

(B) (1) shall be furnished when described in a search warrant issued by a court authorized to issue such a search warrant pursuant to article six hundred ninety of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state, provided, however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony against the laws of this state; and

(2) shall be furnished in response to a subpoena duces tecum signed by a judge of competent jurisdiction and issued pursuant to article six hundred ten of the criminal procedure law or a judge or magistrate of a federal court authorized to issue such a subpoena duces tecum under federal law, where the judge finds and the subpoena states that there is reasonable cause to believe such information is relevant and material to the prosecution, or the defense, or the investigation by an authorized law enforcement official, of the alleged commission of a misdemeanor or felony in this state or another state, provided, however, that if such offense was against the laws of another state, such judge or magistrate shall only issue such subpoena if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony in this state; and

(3) may, if lawfully obtained pursuant to this clause and clause (A) of this subparagraph and otherwise admissible, be used in such criminal action or proceeding.

(b) If the city of Syracuse establishes a demonstration program pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, within a school speed zone in violation of subdivision (c) or during the times authorized pursuant to subdivision (a) of this section in violation of subdivision (b), (d), (f) or (g) of section eleven

1 hundred eighty of this article, such vehicle was traveling at a speed of
2 more than ten miles per hour above the posted speed limit in effect
3 within such school speed zone, and such violation is evidenced by infor-
4 mation obtained from a photo speed violation monitoring system; provided
5 however that no owner of a vehicle shall be liable for a penalty imposed
6 pursuant to this section where the operator of such vehicle has been
7 convicted of the underlying violation of subdivision (b), (c), (d), (f)
8 or (g) of section eleven hundred eighty of this article.

9 (c) For purposes of this section, the following terms shall have the
10 following meanings:

11 1. "manual on uniform traffic control devices" or "MUTCD" shall mean
12 the manual and specifications for a uniform system of traffic control
13 devices maintained by the commissioner of transportation pursuant to
14 section sixteen hundred eighty of this chapter;

15 2. "owner" shall have the meaning provided in article two-B of this
16 chapter;

17 3. "photo speed violation monitoring system" shall mean a vehicle
18 sensor installed to work in conjunction with a speed measuring device
19 which automatically produces two or more photographs, two or more micro-
20 photographs, a videotape or other recorded images of each vehicle at the
21 time it is used or operated in a school speed zone in violation of
22 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty
23 of this article in accordance with the provisions of this section; and

24 4. "school speed zone" shall mean a distance not to exceed one thou-
25 sand three hundred twenty feet on a highway passing a school building,
26 entrance or exit of a school abutting on the highway.

27 (d) A certificate, sworn to or affirmed by a technician employed by
28 the city of Syracuse, or a facsimile thereof, based upon inspection of
29 photographs, microphotographs, videotape or other recorded images
30 produced by a photo speed violation monitoring system, shall be prima
31 facie evidence of the facts contained therein. Any photographs, micro-
32 photographs, videotape or other recorded images evidencing such a
33 violation shall include at least two date and time stamped images of the
34 rear of the motor vehicle that include the same stationary object near
35 the motor vehicle and shall be available for inspection reasonably in
36 advance of and at any proceeding to adjudicate the liability for such
37 violation pursuant to this section.

38 (e) An owner liable for a violation of subdivision (b), (c), (d), (f)
39 or (g) of section eleven hundred eighty of this article pursuant to a
40 demonstration program established pursuant to this section shall be
41 liable for monetary penalties in accordance with a schedule of fines and
42 penalties to be promulgated by the parking violations bureau of the city
43 of Syracuse. The liability of the owner pursuant to this section shall
44 not exceed fifty dollars for each violation; provided, however, that
45 such parking violations bureau may provide for an additional penalty not
46 in excess of twenty-five dollars for each violation for the failure to
47 respond to a notice of liability within the prescribed time period.

48 (f) An imposition of liability under the demonstration program estab-
49 lished pursuant to this section shall not be deemed a conviction as an
50 operator and shall not be made part of the operating record of the
51 person upon whom such liability is imposed nor shall it be used for
52 insurance purposes in the provision of motor vehicle insurance coverage.

53 (g) 1. A notice of liability shall be sent by first class mail to each
54 person alleged to be liable as an owner for a violation of subdivision
55 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this arti-
56 cle pursuant to this section, within fourteen business days if such

1 owner is a resident of this state and within forty-five business days if
2 such owner is a non-resident. Personal delivery on the owner shall not
3 be required. A manual or automatic record of mailing prepared in the
4 ordinary course of business shall be prima facie evidence of the facts
5 contained therein.

6 2. A notice of liability shall contain the name and address of the
7 person alleged to be liable as an owner for a violation of subdivision
8 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this arti-
9 cle pursuant to this section, the registration number of the vehicle
10 involved in such violation, the location where such violation took
11 place, the date and time of such violation, the identification number of
12 the camera which recorded the violation or other document locator
13 number, at least two date and time stamped images of the rear of the
14 motor vehicle that include the same stationary object near the motor
15 vehicle, and the certificate charging the liability.

16 3. The notice of liability shall contain information advising the
17 person charged of the manner and the time in which he or she may contest
18 the liability alleged in the notice. Such notice of liability shall also
19 contain a prominent warning to advise the person charged that failure to
20 contest in the manner and time provided shall be deemed an admission of
21 liability and that a default judgment may be entered thereon.

22 4. The notice of liability shall be prepared and mailed by the city of
23 Syracuse, or by any other entity authorized by the city to prepare and
24 mail such notice of liability.

25 (h) Adjudication of the liability imposed upon owners of this section
26 shall be by the city of Syracuse parking violations bureau.

27 (i) If an owner receives a notice of liability pursuant to this
28 section for any time period during which the vehicle or the number plate
29 or plates of such vehicle was reported to the police department as
30 having been stolen, it shall be a valid defense to an allegation of
31 liability for a violation of subdivision (b), (c), (d), (f) or (g) of
32 section eleven hundred eighty of this article pursuant to this section
33 that the vehicle or the number plate or plates of such vehicle had been
34 reported to the police as stolen prior to the time the violation
35 occurred and had not been recovered by such time. For purposes of
36 asserting the defense provided by this subdivision, it shall be suffi-
37 cient that a certified copy of the police report on the stolen vehicle
38 or number plate or plates of such vehicle be sent by first class mail to
39 the city of Syracuse parking violations bureau or by any other entity
40 authorized by the city to prepare and mail such notice of liability.

41 (j) Adjudication of the liability imposed upon owners of this section
42 shall be by the city of Syracuse parking violations bureau.

43 (k) 1. An owner who is a lessor of a vehicle to which a notice of
44 liability was issued pursuant to subdivision (g) of this section shall
45 not be liable for the violation of subdivision (b), (c), (d), (f) or (g)
46 of section eleven hundred eighty of this article pursuant to this
47 section, provided that:

48 (i) prior to the violation, the lessor has filed with such parking
49 violations bureau in accordance with the provisions of section two
50 hundred thirty-nine of this chapter; and

51 (ii) within thirty-seven days after receiving notice from such bureau
52 of the date and time of a liability, together with the other information
53 contained in the original notice of liability, the lessor submits to
54 such bureau the correct name and address of the lessee of the vehicle
55 identified in the notice of liability at the time of such violation,
56 together with such other additional information contained in the rental,

1 lease or other contract document, as may be reasonably required by such
2 bureau pursuant to regulations that may be promulgated for such purpose.

3 2. Failure to comply with subparagraph (ii) of paragraph one of this
4 subdivision shall render the owner liable for the penalty prescribed in
5 this section.

6 3. Where the lessor complies with the provisions of paragraph one of
7 this subdivision, the lessee of such vehicle on the date of such
8 violation shall be deemed to be the owner of such vehicle for purposes
9 of this section, shall be subject to liability for such violation pursu-
10 ant to this section and shall be sent a notice of liability pursuant to
11 subdivision (g) of this section.

12 (l) 1. If the owner liable for a violation of subdivision (c) or (d)
13 of section eleven hundred eighty of this article pursuant to this
14 section was not the operator of the vehicle at the time of the
15 violation, the owner may maintain an action for indemnification against
16 the operator.

17 2. Notwithstanding any other provision of this section, no owner of a
18 vehicle shall be subject to a monetary fine imposed pursuant to this
19 section if the operator of such vehicle was operating such vehicle with-
20 out the consent of the owner at the time such operator operated such
21 vehicle in violation of subdivision (b), (c), (d), (f) or (g) of section
22 eleven hundred eighty of this article. For purposes of this subdivision
23 there shall be a presumption that the operator of such vehicle was oper-
24 ating such vehicle with the consent of the owner at the time such opera-
25 tor operated such vehicle in violation of subdivision (b), (c), (d), (f)
26 or (g) of section eleven hundred eighty of this article.

27 (m) Nothing in this section shall be construed to limit the liability
28 of an operator of a vehicle for any violation of subdivision (c) or (d)
29 of section eleven hundred eighty of this article.

30 (n) If the city adopts a demonstration program pursuant to subdivision
31 (a) of this section it shall conduct a study and submit an annual report
32 on the results of the use of photo devices to the governor, the tempo-
33 rary president of the senate and the speaker of the assembly on or
34 before the first day of June next succeeding the effective date of this
35 section and on the same date in each succeeding year in which the demon-
36 stration program is operable. Such report shall include:

37 1. the locations where and dates when photo speed violation monitoring
38 systems were used;

39 2. the aggregate number, type and severity of crashes, fatalities,
40 injuries and property damage reported within all school speed zones
41 within the city, to the extent the information is maintained by the
42 department of motor vehicles of this state;

43 3. the aggregate number, type and severity of crashes, fatalities,
44 injuries and property damage reported within school speed zones where
45 photo speed violation monitoring systems were used, to the extent the
46 information is maintained by the department of motor vehicles of this
47 state;

48 4. the number of violations recorded within all school speed zones
49 within the city, in the aggregate on a daily, weekly and monthly basis;

50 5. the number of violations recorded within each school speed zone
51 where a photo speed violation monitoring system is used, in the aggre-
52 gate on a daily, weekly and monthly basis;

53 6. the number of violations recorded within all school speed zones
54 within the city that were;

55 (i) more than ten but not more than twenty miles per hour over the
56 posted speed limit;

1 (ii) more than twenty but not more than thirty miles per hour over the
2 posted speed limit;

3 (iii) more than thirty but not more than forty miles per hour over the
4 posted speed limit; and

5 (iv) more than forty miles per hour over the posted speed limit;

6 7. the number of violations recorded within each school speed zone
7 where a photo speed violation monitoring system is used that were:

8 (i) more than ten but not more than twenty miles per hour over the
9 posted speed limit;

10 (ii) more than twenty but not more than thirty miles per hour over the
11 posted speed limit;

12 (iii) more than thirty but not more than forty miles per hour over the
13 posted speed limit; and

14 (iv) more than forty miles per hour over the posted speed limit;

15 8. the total number of notices of liability issued for violations
16 recorded by such systems;

17 9. the number of fines and total amount of fines paid after the first
18 notice of liability issued for violations recorded by such systems;

19 10. the number of violations adjudicated and the results of such adju-
20 dications including breakdowns of dispositions made for violations
21 recorded by such systems;

22 11. the total amount of revenue realized by the city in connection
23 with the program;

24 12. the expenses incurred by the city in connection with the program;
25 and

26 13. the quality of the adjudication process and its results.

27 (o) It shall be a defense to any prosecution for a violation of subdi-
28 vision (b), (c), (d), (f) or (g) of section eleven hundred eighty of
29 this article pursuant to this section that such photo speed violation
30 monitoring system was malfunctioning at the time of the alleged
31 violation.

32 § 2. Subdivision 2 of section 87 of the public officers law is amended
33 by adding a new paragraph (s) to read as follows:

34 (s) are photographs, microphotographs, videotape or other recorded
35 images prepared under authority of section eleven hundred eighty-f of
36 the vehicle and traffic law.

37 § 3. The purchase or lease of equipment for a demonstration program
38 established pursuant to section 1180-f of the vehicle and traffic law,
39 as added by section one of this act, shall be subject to the provisions
40 of section 103 of the general municipal law.

41 § 4. This act shall take effect on the thirtieth day after it shall
42 have become a law and shall expire December 31, 2028, when upon such
43 date the provisions of this act shall be deemed repealed. Effective
44 immediately, the addition, amendment and/or repeal of any rule or regu-
45 lation necessary for the implementation of this act on its effective
46 date are authorized to be made and completed on or before such effective
47 date.