

STATE OF NEW YORK

7043

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. FAHY -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the public officers law, in relation to establishing a school speed zone camera demonstration program in the city of Albany; 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:

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

3 § 1180-f. Owner liability for failure of operator to comply with
4 certain posted maximum speed limits; city of Albany. (a) Definitions.
5 For purposes of this section, the following terms shall have the follow-
6 ing meanings:

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

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

13 3. "speed camera system" shall mean a vehicle sensor installed to work
14 in conjunction with a speed measuring device which automatically produc-
15 es two or more photographs, two or more microphotographs, a videotape or
16 other recorded images of each vehicle at the time it is used or operated
17 in a school speed zone in violation of subdivision (b), (c), (d), (f) or
18 (g) of section eleven hundred eighty of this article in accordance with
19 the provisions of this section;

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

23 5. "the city" means the city of Albany.

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

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(b) Speed camera demonstration program. 1. Notwithstanding any other provision of law, the city of Albany 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 the 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.

2. Such demonstration program shall empower the city to install speed camera systems within no more than twenty school speed zones within the city at any one time and to operate such systems within such zones. In selecting a school speed zone in which to install and operate a speed camera system, the city shall consider criteria including, but not limited to the speed data, crash history, and the roadway geometry applicable to such school speed zone.

3. No speed camera system shall be used in a school speed zone unless (i) on the day such speed camera system is to be used such speed camera system has successfully passed a self-test of such speed camera system's functions; and (ii) such speed camera system has undergone an annual calibration check performed pursuant to paragraph five of this subdivision. The city shall install signs giving notice that a speed camera system is in use to be mounted on advance warning signs notifying motor vehicle operators of such upcoming school speed zone and/or on speed limit signs applicable within such school speed zone, in conformance with standards established in the MUTCD.

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

5. Each speed camera system shall undergo an annual calibration check performed by an independent calibration laboratory which shall issue a signed certificate of calibration. The city shall keep each such annual certificate of calibration on file until the final resolution of all cases involving a notice of liability issued during such year which were based on photographs, microphotographs, videotape or other recorded images produced by such speed camera system.

6. (i) Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape or other recorded images produced by such speed camera systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice

1 of liability issued pursuant to this section shall be dismissed solely
2 because such a photograph, microphotograph, videotape or other recorded
3 image allows for the identification of the driver, the passengers, or
4 the contents of vehicles where the city shows that it made reasonable
5 efforts to comply with the provisions of this paragraph in such case.

6 (ii) Photographs, microphotographs, videotape or any other recorded
7 images from a speed camera system shall be for the exclusive use of the
8 city for the purpose of the adjudication of liability imposed pursuant
9 to this section and of the owner receiving a notice of liability pursu-
10 ant to this section, and shall be destroyed by the city upon the final
11 resolution of the notice of liability to which such photographs, micro-
12 photographs, videotape or other recorded images relate, or one year
13 following the date of issuance of such notice of liability, whichever is
14 later. Notwithstanding the provisions of any other law, rule or regu-
15 lation to the contrary, photographs, microphotographs, videotape or any
16 other recorded image from a speed camera system shall not be open to the
17 public, nor subject to civil or criminal process or discovery, nor used
18 by any court or administrative or adjudicatory body in any action or
19 proceeding therein except that which is necessary for the adjudication
20 of a notice of liability issued pursuant to this section, and no public
21 entity or employee, officer or agent thereof shall disclose such infor-
22 mation, except that such photographs, microphotographs, videotape or any
23 other recorded images from such systems:

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

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

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

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

1 (c) Vehicle owner liability. 1. If the city of Albany establishes a
2 demonstration program pursuant to subdivision (b) of this section, the
3 owner of a vehicle shall be liable for a penalty imposed pursuant to
4 this section if such vehicle was used or operated with the permission of
5 the owner, express or implied, within a school speed zone in violation
6 of subdivision (b) of this section or during the times authorized pursu-
7 ant to paragraph 1 of subdivision (b), (d), (f) or (g) of section eleven
8 hundred eighty of this article, such vehicle was traveling at a speed of
9 more than ten miles per hour above the posted speed limit in effect
10 within such school speed zone, and such violation is evidenced by infor-
11 mation obtained from a speed camera system; provided however that no
12 owner of a vehicle shall be liable for a penalty imposed pursuant to
13 this section where the operator of such vehicle has been convicted of
14 the underlying violation of subdivision (b), (c), (d), (f) or (g) of
15 section eleven hundred eighty of this article.

16 2. Nothing in this section shall be construed to limit the liability
17 of an operator of a vehicle for any violation of subdivision (c) or (d)
18 of section eleven hundred eighty of this article.

19 (d) Evidence of violation. A certificate, sworn to or affirmed by a
20 technician employed by the city of Albany, or a facsimile thereof, based
21 upon inspection of photographs, microphotographs, videotape or other
22 recorded images produced by a speed camera system, shall be prima facie
23 evidence of the facts contained therein. Any photographs, microphoto-
24 graphs, videotape or other recorded images evidencing such a violation
25 shall include at least two date and time stamped images of the rear of
26 the motor vehicle that include the same stationary object near the motor
27 vehicle and shall be available for inspection reasonably in advance of
28 and at any proceeding to adjudicate the liability for such violation
29 pursuant to this section.

30 (e) Fines for violations. An owner liable for a violation of subdivi-
31 sion (b), (c), (d), (f) or (g) of section eleven hundred eighty of this
32 article pursuant to a demonstration program established pursuant to this
33 section shall be liable for monetary penalties in accordance with a
34 schedule of fines and penalties to be promulgated by the parking
35 violations bureau of the city of Albany. The liability of the owner
36 pursuant to this section shall not exceed fifty dollars for each
37 violation; provided, however, that such parking violations bureau may
38 provide for an additional penalty not in excess of twenty-five dollars
39 for each violation for the failure to respond to a notice of liability
40 within the prescribed time period.

41 (f) Record and insurance. An imposition of liability under the demon-
42 stration program established pursuant to this section shall not be
43 deemed a conviction as an operator and shall not be made part of the
44 operating record of the person upon whom such liability is imposed nor
45 shall it be used for insurance purposes in the provision of motor vehi-
46 cle insurance coverage.

47 (g) Procedure for enforcement. 1. A notice of liability shall be sent
48 by first class mail to each person alleged to be liable as an owner for
49 a violation of subdivision (b), (c), (d), (f) or (g) of section eleven
50 hundred eighty of this article pursuant to this section, within fourteen
51 business days if such owner is a resident of this state and within
52 forty-five business days if such owner is a non-resident of this state.
53 Personal delivery on the owner shall not be required. A manual or auto-
54 matic record of mailing prepared in the ordinary course of business
55 shall be prima facie evidence of the facts contained therein.

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

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

17 4. The notice of liability shall be prepared and mailed by the city of
18 Albany, or by any other entity authorized by the city to prepare and
19 mail such notice of liability.

20 5. Adjudication of the liability imposed upon owners of this section
21 shall be by the city of Albany parking violations bureau.

22 (h) Defenses. 1. If an owner receives a notice of liability pursuant
23 to this section for any time period during which the vehicle or the
24 number plate or plates of such vehicle was reported to the police
25 department as having been stolen, it shall be a valid defense to an
26 allegation of liability for a violation of subdivision (b), (c), (d),
27 (f) or (g) of section eleven hundred eighty of this article pursuant to
28 this section that the vehicle or the number plate or plates of such
29 vehicle had been reported to the police as stolen prior to the time the
30 violation occurred and had not been recovered by such time. For purposes
31 of asserting the defense provided by this subdivision, it shall be
32 sufficient that a certified copy of the police report on the stolen
33 vehicle or number plate or plates of such vehicle be sent by first class
34 mail to the city of Albany parking violations bureau or by any other
35 entity authorized by the city to prepare and mail such notice of liabil-
36 ity.

37 2. It shall be a defense to any prosecution for a violation of subdivi-
38 vision (b), (c), (d), (f) or (g) of section eleven hundred eighty of
39 this article pursuant to this section that such speed camera system was
40 malfunctioning at the time of the alleged violation.

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

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

49 (ii) within thirty-seven days after receiving notice from such divi-
50 sion of the date and time of a liability, together with the other infor-
51 mation contained in the original notice of liability, the lessor submits
52 to such division the correct name and address of the lessee of the vehi-
53 cle identified in the notice of liability at the time of such violation,
54 together with such other additional information contained in the rental,
55 lease or other contract document, as may be reasonably required by such

1 division pursuant to regulations that may be promulgated for such
2 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 this subdivision.

12 (j) Indemnification. 1. If the owner liable for a violation of subdivi-
13 vision (c) or (d) of section eleven hundred eighty of this article
14 pursuant to this section was not the operator of the vehicle at the time
15 of the violation, the owner may maintain an action for indemnification
16 against 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 (k) Study and report. If the city adopts a demonstration program
28 pursuant to subdivision (b) of this section it shall conduct a study and
29 submit a report on the results of the use of speed camera systems to the
30 governor, the temporary president of the senate, and the speaker of the
31 assembly on January first of each year. Such report shall include:

32 1. the locations and dates upon which speed camera systems were used;

33 2. the aggregate number, type and severity of crashes, fatalities,
34 injuries and property damage reported within all school speed zones
35 within the city, to the extent such information is maintained by the
36 department of motor vehicles of this state;

37 3. the aggregate number, type and severity of crashes, fatalities,
38 injuries and property damage reported within school speed zones where
39 speed camera systems were used, to the extent such information is main-
40 tained by the department of motor vehicles of this state;

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

43 5. the number of violations recorded within each school speed zone
44 where a speed camera system is used, in the aggregate on a daily, weekly
45 and monthly basis;

46 6. the number of violations recorded within all school speed zones
47 within the city that were:

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

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

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

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

55 7. the number of violations recorded within each school speed zone
56 where a speed camera system is used that were:

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

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

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

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

8 8. the total number of notices of liability issued for violations
9 recorded by such speed camera systems;

10 9. the number of fines and total amount of fines paid after the first
11 notice of liability issued for violations recorded by such speed camera
12 systems;

13 10. the number of violations adjudicated and the results of such adju-
14 dications including breakdowns of dispositions made for violations
15 recorded by such speed camera systems;

16 11. the total amount of revenue realized by the city in connection
17 with the demonstration program under this section;

18 12. the expenses incurred by the city in connection with the demon-
19 stration program under this section; and

20 13. the quality of the adjudication process pursuant to this section
21 and its results.

22 § 2. Section 237 of the vehicle and traffic law is amended by adding a
23 new subdivision 17 to read as follows:

24 17. To adjudicate the liability of owners for violations of subdivi-
25 sion (b), (c), (d), (f) or (g) of section eleven hundred eighty of this
26 chapter in accordance with section eleven hundred eighty-f of this chap-
27 ter.

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

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

33 § 4. This act shall take effect immediately and shall expire 5 years
34 after such effective date when upon such date the provisions of this act
35 shall be deemed repealed; provided, however, that the authorization for
36 the demonstration project shall be suspended immediately in the event
37 that the report required under subdivision (k) of section 1180-f of the
38 vehicle and traffic law is not submitted on or before April 1 of each
39 year, pending the submission of such report; and provided, further, that
40 the city of Albany shall notify the legislative bill drafting commission
41 upon the occurrence of the submission of such report, in order that the
42 commission may maintain an accurate and timely effective data base of
43 the official text of the laws of the state of New York in furtherance of
44 effectuating the provisions of section 44 of the legislative law and
45 section 70-b of the public officers law.