

# STATE OF NEW YORK

7653

2023-2024 Regular Sessions

## IN ASSEMBLY

May 30, 2023

Introduced by M. of A. STECK -- read once and referred 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 city of Schenectady; 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 city of Schenectady 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 city in accordance with the provisions of this section. Such demon-  
10 stration program shall empower such city to install and operate traff-  
11 ic-control signal photo violation-monitoring devices at no more than  
12 twelve intersections within such city at any one time.

13 2. Such demonstration program shall utilize necessary technologies to  
14 ensure, to the extent practicable, that photographs produced by such  
15 traffic-control signal photo violation-monitoring systems shall not  
16 include images that identify the driver, the passengers, or the contents  
17 of the vehicle. Provided, however, that no notice of liability issued  
18 pursuant to this section shall be dismissed solely because a photograph  
19 or photographs allow for the identification of the contents of a vehi-  
20 cle, provided that such city has made a reasonable effort to comply with  
21 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 city which has adopted a local law or ordinance pursu-  
2 ant to subdivision (a) of this section, the owner of a vehicle shall be  
3 liable for a penalty imposed pursuant to this section if such vehicle  
4 was used or operated with the permission of the owner, express or  
5 implied, in violation of subdivision (d) of section eleven hundred elev-  
6 en 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 as  
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 the city of Schenectady in which the charged violation occurred, or a  
22 facsimile thereof, based upon inspection of photographs, microphoto-  
23 graphs, videotape or other recorded images produced by a traffic-control  
24 signal photo violation-monitoring system, shall be prima facie evidence  
25 of the facts contained therein. Any photographs, microphotographs, vide-  
26 otape or other recorded images evidencing such a violation shall be  
27 available for inspection in any proceeding to adjudicate the liability  
28 for such violation pursuant to a local law or ordinance adopted pursuant  
29 to this 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, except that if such city by local  
35 law has authorized the adjudication of such owner liability by a parking  
36 violations bureau, such schedule shall be promulgated by such bureau.  
37 The liability of the owner pursuant to this section shall not exceed  
38 fifty dollars for each violation; provided, however, that such local law  
39 or ordinance may provide for an additional penalty not in excess of  
40 twenty-five dollars for each violation for the failure to respond to a  
41 notice of liability within the prescribed time period.

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

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

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

1 violation, the location where such violation took place, the date and  
2 time of such violation and the identification number of the camera which  
3 recorded the violation or other document locator number.

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

10 4. The notice of liability shall be prepared and mailed by the city of  
11 Schenectady, or by any other entity authorized by such city to prepare  
12 and mail such notification of violation.

13 (h) Adjudication of the liability imposed upon owners by this section  
14 shall be by a traffic violations bureau established pursuant to section  
15 three hundred seventy of the general municipal law or, if there be none,  
16 by the court having jurisdiction over traffic infractions, except that  
17 if such city has established an administrative tribunal to hear and  
18 determine complaints of traffic infractions constituting parking, stand-  
19 ing or stopping violations such city may, by local law, authorize such  
20 adjudication by such tribunal.

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

32 (j) 1. In such city where the adjudication of liability imposed upon  
33 owners pursuant to this section is by a traffic violations bureau or a  
34 court having jurisdiction, an owner who is a lessor of a vehicle to  
35 which a notice of liability was issued pursuant to subdivision (g) of  
36 this section shall not be liable for the violation of subdivision (d) of  
37 section eleven hundred eleven of this article, provided that he or she  
38 sends to the traffic violations bureau or court having jurisdiction a  
39 copy of the rental, lease or other such contract document covering such  
40 vehicle on the date of the violation, with the name and address of the  
41 lessee clearly legible, within thirty-seven days after receiving notice  
42 from the bureau or court of the date and time of such violation, togeth-  
43 er with the other information contained in the original notice of  
44 liability. Failure to send such information within such thirty-seven  
45 day time period shall render the owner liable for the penalty prescribed  
46 by this section. Where the lessor complies with the provisions of this  
47 paragraph, the lessee of such vehicle on the date of such violation  
48 shall be deemed to be the owner of such vehicle for purposes of this  
49 section, shall be subject to liability for the violation of subdivision  
50 (d) of section eleven hundred eleven of this article pursuant to this  
51 section and shall be sent a notice of liability pursuant to subdivision  
52 (g) of this section.

53 2. (I) In such city which, by local law, has authorized the adjudi-  
54 cation of liability imposed upon owners by this section by a parking  
55 violations bureau, an owner who is a lessor of a vehicle to which a  
56 notice of liability was issued pursuant to subdivision (g) of this

1 section shall not be liable for the violation of subdivision (d) of  
2 section eleven hundred eleven of this article, provided that:

3 (A) prior to the violation, the lessor has filed with the bureau in  
4 accordance with the provisions of section two hundred thirty-nine of  
5 this chapter; and

6 (B) within thirty-seven days after receiving notice from the bureau of  
7 the date and time of a liability, together with the other information  
8 contained in the original notice of liability, the lessor submits to the  
9 bureau the correct name and address of the lessee of the vehicle identi-  
10 fied in the notice of liability at the time of such violation, together  
11 with such other additional information contained in the rental, lease or  
12 other contract document, as may be reasonably required by the bureau  
13 pursuant to regulations that may be promulgated for such purpose.

14 (II) Failure to comply with clause (B) of subparagraph (I) of this  
15 paragraph shall render the owner liable for the penalty prescribed in  
16 this section.

17 (III) Where the lessor complies with the provisions of this paragraph,  
18 the lessee of such vehicle on the date of such violation shall be deemed  
19 to be the owner of such vehicle for purposes of this section, shall be  
20 subject to liability for such violation pursuant to this section and  
21 shall be sent a notice of liability pursuant to subdivision (g) of this  
22 section.

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

27 2. Notwithstanding any other provision of this section, no owner of a  
28 vehicle shall be subject to a monetary fine imposed pursuant to this  
29 section if the operator of such vehicle was operating such vehicle with-  
30 out the consent of the owner at the time such operator failed to obey a  
31 traffic-control indication. For purposes of this subdivision there shall  
32 be a presumption that the operator of such vehicle was operating such  
33 vehicle with the consent of the owner at the time such operator failed  
34 to obey a traffic-control indication.

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

38 (m) Any city that adopts a demonstration program pursuant to subdivi-  
39 sion (a) of this section shall submit an annual report detailing the  
40 results of the use of such traffic-control signal photo violation-moni-  
41 toring system to the governor, the temporary president of the senate and  
42 the speaker of the assembly on or before the first day of June next  
43 succeeding the effective date of this section and on the same date in  
44 each succeeding year in which the demonstration program is operable.  
45 Such report shall include, but not be limited to:

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

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

53 3. the aggregate number, type and severity of accidents reported at  
54 intersections where a traffic-control signal photo violation-monitoring  
55 system is used for the reporting year, as well as for each year that the  
56 traffic-control signal photo violation-monitoring system has been opera-

1 tional, to the extent the information is maintained by the department of  
2 motor vehicles of this state;

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

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

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

13 7. the number and percentage of violations adjudicated and results of  
14 such adjudications including breakdowns of dispositions made for  
15 violations recorded by such systems;

16 8. the total amount of revenue realized by such city from such adjudi-  
17 cations including a breakdown of revenue realized by such city for each  
18 year since deployment of its traffic-control signal photo violation-mon-  
19 itoring system;

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

21 10. quality of the adjudication process and its results.

22 (n) It shall be a defense to any prosecution for a violation of subdi-  
23 vision (d) of section eleven hundred eleven of this article pursuant to  
24 a local law or ordinance adopted pursuant to this section that such  
25 traffic-control indications were malfunctioning at the time of the  
26 alleged violation.

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

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

32 § 3. The purchase or lease of equipment for a demonstration program  
33 established pursuant to section 1111-g of the vehicle and traffic law  
34 shall be subject to the provisions of section 103 of the general munic-  
35 pal law.

36 § 4. This act shall take effect on the thirtieth day after it shall  
37 have become a law and shall expire and be deemed repealed December 1,  
38 2028, provided, further, that any such local law as may be enacted  
39 pursuant to section one of this act shall remain in full force and  
40 effect only until December 1, 2028.