STATE OF NEW YORK

8960

IN ASSEMBLY

January 30, 2024

Introduced by M. of A. SHIMSKY -- 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 town of Greenburgh; 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:

Section 1. The vehicle and traffic law is amended by adding a new section 1111-h to read as follows:

§ 1111-h. Owner liability for failure of operator to comply with traffic-control indications. (a) 1. Notwithstanding any other provision of law, the town of Greenburgh is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such town in accordance with the provisions of this section. Such demonstration program shall empower such town to install and operate traffic-control signal photo violation-monitoring devices at no more than ten intersections within and under the jurisdiction of such town at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo violation-monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that such town has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any such town which has adopted a local law or ordinance 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

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

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was used or operated with the permission of the owner, express or implied, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo violation-monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, "owner" shall have the meaning provided in article two-B of this chapter. For purposes of this section, "traffic-control signal photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the town of Greenburgh in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.

(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance. The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

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

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

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

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest

the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the town of Greenburgh or by any other entity authorized by such town to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law where the violation occurred or, if there be none, by the court having jurisdiction over traffic infractions.

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

(j) An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the traffic violations bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

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

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a traffic-control indication. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a traffic-control indication.

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

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

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

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

3. the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the reporting year, as well as for each year that the traffic-control signal photo violation-monitoring system has been operational, to the extent the information is maintained by the department;

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

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

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

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

8. the total amount of revenue realized by such town from such adjudications including a breakdown of revenue realized by such town for each year since deployment of its traffic-control signal photo violation-monitoring system;

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

10. quality of the adjudication process and its results.

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

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

(u) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-h of the vehicle and traffic law.

§ 3. The purchase or lease of equipment for a demonstration program established pursuant to section 1111-h of the vehicle and traffic law shall be subject to the provisions of section 103 of the general municipal law.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 1, 2028, when upon such date

the provisions of this act shall be deemed repealed; provided, however, that any such local law as may be enacted pursuant to section one of this act shall remain in full force and effect only until December 1, 2028. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.