

# STATE OF NEW YORK

9359--A

## IN ASSEMBLY

March 6, 2024

Introduced by M. of A. SHRESTHA -- 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 establishing a school speed zone camera demonstration program in the city of Kingston; 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-g to read as follows:

3 § 1180-g. Owner liability for failure of operator to comply with  
4 certain posted maximum speed limits. (a) 1. Notwithstanding any other  
5 provision of law, the city of Kingston is hereby authorized to establish  
6 a demonstration program imposing monetary liability on the owner of a  
7 vehicle for failure of an operator thereof to comply with posted maximum  
8 speed limits in a school speed zone within such city (i) when a school  
9 speed limit is in effect as provided in paragraphs one and two of subdivi-  
10 vision (c) of section eleven hundred eighty of this article or (ii) when  
11 other speed limits are in effect as provided in subdivision (b), (d),  
12 (f) or (g) of section eleven hundred eighty of this article during the  
13 following times: (A) on school days during school hours and one hour  
14 before and one hour after the school day, and (B) a period during  
15 student activities at the school and up to thirty minutes immediately  
16 before and up to thirty minutes immediately after such student activ-  
17 ities. Such demonstration program shall empower the city of Kingston to  
18 install photo speed violation monitoring systems within no more than  
19 three school speed zones within such city at any one time and to operate  
20 such systems within such zones (iii) when a school speed limit is in  
21 effect as provided in paragraphs one and two of subdivision (c) of  
22 section eleven hundred eighty of this article or (iv) when other speed  
23 limits are in effect as provided in subdivision (b), (d), (f) or (g) of  
24 section eleven hundred eighty of this article during the following  
25 times: (A) on school days during school hours and one hour before and

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

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1 one hour after the school day, and (B) a period during student activ-  
2 ities at the school and up to thirty minutes immediately before and up  
3 to thirty minutes immediately after such student activities. In select-  
4 ing a school speed zone in which to install and operate a photo speed  
5 violation monitoring system, the city shall consider criteria including,  
6 but not limited to, the speed data, crash history, and the roadway geom-  
7 etry applicable to such school speed zone.

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

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

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

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

49 (ii) Photographs, microphotographs, videotape or any other recorded  
50 image from a photo speed violation monitoring system shall be for the  
51 exclusive use of the city for the purpose of the adjudication of liabil-  
52 ity imposed pursuant to this section and of the owner receiving a notice  
53 of liability pursuant to this section, and shall be destroyed by the  
54 city upon the final resolution of the notice of liability to which such  
55 photographs, microphotographs, videotape or other recorded images  
56 relate, or one year following the date of issuance of such notice of

1 liability, whichever is later. Notwithstanding the provisions of any  
2 other law, rule or regulation to the contrary, photographs, microphoto-  
3 graphs, videotape or any other recorded image from a photo speed  
4 violation monitoring system shall not be open to the public, nor subject  
5 to civil or criminal process or discovery, nor used by any court or  
6 administrative or adjudicatory body in any action or proceeding therein  
7 except that which is necessary for the adjudication of a notice of  
8 liability issued pursuant to this section, and no public entity or  
9 employee, officer or agent thereof shall disclose such information,  
10 except that such photographs, microphotographs, videotape or any other  
11 recorded images from such systems:

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

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

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

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

45 (b) If the city of Kingston establishes a demonstration program pursu-  
46 ant to subdivision (a) of this section, the owner of a vehicle shall be  
47 liable for a penalty imposed pursuant to this section if such vehicle  
48 was used or operated with the permission of the owner, express or  
49 implied, within a school speed zone in violation of subdivision (c) or  
50 during the times authorized pursuant to subdivision (a) of this section  
51 in violation of subdivision (b), (d), (f) or (g) of section eleven  
52 hundred eighty of this article, such vehicle was traveling at a speed of  
53 more than ten miles per hour above the posted speed limit in effect  
54 within such school speed zone, and such violation is evidenced by infor-  
55 mation obtained from a photo speed violation monitoring system; provided  
56 however that no owner of a vehicle shall be liable for a penalty imposed

1 pursuant to this section where the operator of such vehicle has been  
2 convicted of the underlying violation of subdivision (b), (c), (d), (f)  
3 or (g) of section eleven hundred eighty of this article.

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

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

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

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

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

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

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

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

48 (g) 1. A notice of liability shall be sent by first class mail to each  
49 person alleged to be liable as an owner for a violation of subdivision  
50 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this arti-  
51 cle pursuant to this section, within fourteen business days if such  
52 owner is a resident of this state and within forty-five business days if  
53 such owner is a non-resident. Personal delivery on the owner shall not  
54 be required. A manual or automatic record of mailing prepared in the  
55 ordinary course of business shall be prima facie evidence of the facts  
56 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 Kingston, or by any other entity authorized by the city to prepare and  
19 mail such notice of liability.

20 (h) Adjudication of the liability imposed upon owners of this section  
21 shall be by the city of Kingston parking violations bureau.

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

36 (j) Adjudication of the liability imposed upon owners of this section  
37 shall be by the city of Kingston parking violations bureau.

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

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

46 (ii) within thirty-seven days after receiving notice from such bureau  
47 of the date and time of a liability, together with the other information  
48 contained in the original notice of liability, the lessor submits to  
49 such bureau the correct name and address of the lessee of the vehicle  
50 identified in the notice of liability at the time of such violation,  
51 together with such other additional information contained in the rental,  
52 lease or other contract document, as may be reasonably required by such  
53 bureau pursuant to regulations that may be promulgated for such purpose.

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

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

7 (1) 1. If the owner liable for a violation of subdivision (c) or (d)  
8 of section eleven hundred eighty of this article pursuant to this  
9 section was not the operator of the vehicle at the time of the  
10 violation, the owner may maintain an action for indemnification against  
11 the operator.

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

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

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

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

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

38 3. the aggregate number, type and severity of crashes, fatalities,  
39 injuries and property damage reported within school speed zones where  
40 photo speed violation monitoring systems were used, to the extent the  
41 information is maintained by the department of motor vehicles of this  
42 state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 11. the total amount of revenue realized by the city in connection  
18 with the program;

19 12. the expenses incurred by the city in connection with the program;  
20 and

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

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

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

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

32 § 3. The purchase or lease of equipment for a demonstration program  
33 established pursuant to section 1180-g of the vehicle and traffic law,  
34 as added by section one of this act, shall be subject to the provisions  
35 of section 103 of the general municipal law.

36 § 4. This act shall take effect on the thirtieth day after it shall  
37 have become a law and shall expire December 31, 2029, when upon such  
38 date the provisions of this act shall be deemed repealed. Effective  
39 immediately, the addition, amendment and/or repeal of any rule or regu-  
40 lation necessary for the implementation of this act on its effective  
41 date are authorized to be made and completed on or before such effective  
42 date.