

STATE OF NEW YORK

7026--B

Cal. No. 1408

2023-2024 Regular Sessions

IN SENATE

May 16, 2023

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged and said bill committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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 county of Westchester; 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 county of Westchester 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 county in accordance with the provisions of this section. Such
10 demonstration program shall empower such county to install and operate
11 traffic-control signal photo violation-monitoring devices at no more
12 than fifty intersections within and under the jurisdiction of such coun-
13 ty at any one time.

14 2. Such demonstration program shall utilize necessary technologies to
15 ensure, to the extent practicable, that photographs produced by such
16 traffic-control signal photo violation-monitoring systems shall not
17 include images that identify the driver, the passengers, or the contents
18 of the vehicle. Provided, however, that no notice of liability issued

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

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1 pursuant to this section shall be dismissed solely because a photograph
2 or photographs allow for the identification of the contents of a vehi-
3 cle, provided that such county has made a reasonable effort to comply
4 with the provisions of this paragraph.

5 (b) In any such county which has adopted a local law or ordinance
6 pursuant to subdivision (a) of this section, the owner of a vehicle
7 shall be liable for a penalty imposed pursuant to this section if such
8 vehicle was used or operated with the permission of the owner, express
9 or implied, in violation of subdivision (d) of section eleven hundred
10 eleven of this article, and such violation is evidenced by information
11 obtained from a traffic-control signal photo violation-monitoring
12 system; provided however that no owner of a vehicle shall be liable for
13 a penalty imposed pursuant to this section where the operator of such
14 vehicle has been convicted of the underlying violation of subdivision
15 (d) of section eleven hundred eleven of this article.

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

24 (d) A certificate, sworn to or affirmed by a technician employed by
25 Westchester county in which the charged violation occurred, or a facsim-
26 ile thereof, based upon inspection of photographs, microphotographs,
27 videotape or other recorded images produced by a traffic-control signal
28 photo violation-monitoring system, shall be prima facie evidence of the
29 facts contained therein. Any photographs, microphotographs, videotape
30 or other recorded images evidencing such a violation shall be available
31 for inspection in any proceeding to adjudicate the liability for such
32 violation pursuant to a local law or ordinance adopted pursuant to this
33 section.

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

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

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

55 2. A notice of liability shall contain the name and address of the
56 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 Westchester county or by any other entity authorized by such county 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 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 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 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

1 be a presumption that the operator of such vehicle was operating such
2 vehicle with the consent of the owner at the time such operator failed
3 to obey a traffic-control indication.

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

7 (m) When a county has established a demonstration program pursuant to
8 this section, all fines and penalties collected under such program shall
9 be distributed in accordance with subdivision thirteen of section eigh-
10 teen hundred three of this chapter.

11 (n) Any county that adopts a demonstration program pursuant to subdi-
12 vision (a) of this section shall submit an annual report detailing the
13 results of the use of such traffic-control signal photo violation-moni-
14 toring system to the governor, the temporary president of the senate and
15 the speaker of the assembly on or before June first, two thousand twen-
16 ty-four and on the same date in each succeeding year in which the demon-
17 stration program is operable. Such report shall include, but not be
18 limited to:

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

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

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

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

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

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

39 7. the number and percentage of violations adjudicated and results of
40 such adjudications including breakdowns of disposition made for
41 violations recorded by such systems which shall be provided at least
42 annually to such county by the respective courts and bureaus conducting
43 such adjudications;

44 8. the total amount of revenue realized by such county from such adju-
45 dications including a breakdown of revenue realized by such county for
46 each year since deployment of its traffic-control signal photo viola-
47 tion-monitoring system;

48 9. expenses incurred by such county in connection with the program;
49 and

50 10. quality of the adjudication process and its results which shall be
51 provided at least annually to such county by the respective courts and
52 bureaus conducting such adjudications.

53 (o) It shall be a defense to any prosecution for a violation of subdi-
54 vision (d) of section eleven hundred eleven of this article pursuant to
55 a local law or ordinance adopted pursuant to this section that such

1 traffic-control indications were malfunctioning at the time of the
2 alleged violation.

3 § 2. Section 1803 of the vehicle and traffic law is amended by adding
4 a new subdivision 13 to read as follows:

5 13. Where the county of Westchester has established a demonstration
6 program imposing monetary liability on the owner of a vehicle for fail-
7 ure of an operator thereof to comply with subdivision (d) of section
8 eleven hundred eleven of this chapter in accordance with section eleven
9 hundred eleven-g of this chapter, any fine or penalty collected by a
10 court, judge, magistrate or other officer for an imposition of liability
11 which occurs within a city, town or village within such county pursuant
12 to such program shall be paid to the state comptroller within the first
13 ten days of the month following collection, except as otherwise provided
14 in subdivision three of section ninety-nine-a of the state finance law.
15 Every such payment shall be accompanied by a statement in such form and
16 detail as the comptroller shall provide. The comptroller shall pay
17 eighty percent of any such fine or penalty imposed for such liability to
18 the county of Westchester, and twenty percent of any such fine or penal-
19 ty to the city, town or village in which the violation giving rise to
20 the liability occurred. All fines, penalties and forfeitures paid to a
21 city, town or village pursuant to the provisions of this subdivision
22 shall be credited to the general fund of such city, town or village,
23 unless a different disposition is prescribed by charter, special law,
24 local law or ordinance.

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

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

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

34 § 5. This act shall take effect on the thirtieth day after it shall
35 have become a law and shall expire and be deemed repealed on December 1,
36 2027, provided, further, that any such local law as may be enacted
37 pursuant to section one of this act shall remain in full force and
38 effect only until December 1, 2027.