

# STATE OF NEW YORK

7064--C

2023-2024 Regular Sessions

## IN SENATE

May 17, 2023

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommended to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to owner liability for failure of an operator to comply with stop signs in designated villages located within the counties of Nassau and Suffolk

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "protect  
2 our pedestrians (POP) act".

3 § 2. The vehicle and traffic law is amended by adding a new section  
4 1174-b to read as follows:

5 § 1174-b. Owner liability for failure of operator to stop for a stop  
6 sign in the village of Upper Brookville, the village of Flower Hill, the  
7 village of East Hampton, the village of Westbury, the village of Saddle  
8 Rock or the village of Southampton (each, a "village"). (a) Notwith-  
9 standing any other provision of law, any village located within the  
10 county of Nassau or the county of Suffolk is hereby authorized and  
11 empowered to adopt and amend a local law or ordinance establishing a  
12 demonstration program imposing monetary liability on the owner of a  
13 vehicle for failure of an operator thereof to comply with subdivision  
14 (a) of section eleven hundred seventy-two of this article. Such demon-  
15 stration program shall empower such village to install and operate stop  
16 sign photo violation monitoring systems which may be stationary or  
17 mobile, and which may be installed on stop signs within the boundaries  
18 of such village.

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

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1 (b) Such demonstration program shall utilize necessary technologies to  
2 ensure, to the extent practicable, that photographs produced by such  
3 stop sign photo violation monitoring systems shall not include images  
4 that identify the driver, the passengers, or the contents of the vehi-  
5 cle. Provided, however, that no notice of liability issued pursuant to  
6 this section shall be dismissed solely because a photograph or photo-  
7 graphs allow for the identification of the driver, passengers, or the  
8 contents of a vehicle, provided that such village has made a reasonable  
9 effort to comply with the provisions of this paragraph.

10 (c) In any such village which has adopted a local law or ordinance  
11 pursuant to subdivision (a) of this section, the owner of a vehicle  
12 shall be liable for a penalty imposed pursuant to this section if such  
13 vehicle was used or operated with the permission of the owner, express  
14 or implied, in violation of subdivision (a) of section eleven hundred  
15 seventy-two of this article, and such violation is evidenced by informa-  
16 tion obtained from a stop sign photo violation monitoring system.

17 (d) For purposes of this section, the following terms shall have the  
18 following meanings:

19 1. "Owner" shall have the meaning as defined pursuant to section two  
20 hundred thirty-nine of this chapter.

21 2. "Village" shall mean the village of Flower Hill, the village of  
22 Upper Brookville, the village of East Hampton, the village of Westbury,  
23 the village of Saddle Rock or the village of Southampton.

24 3. "Stop sign photo violation monitoring system" shall mean a vehicle  
25 sensor installed to work in conjunction with a stop sign which automat-  
26 ically produces two or more photographs, two or more microphotographs, a  
27 videotape or other recorded images of each vehicle at the time it is  
28 used or operated in violation of subdivision (a) of section eleven  
29 hundred seventy-two of this article.

30 4. "Operator" means any person, corporation, firm, partnership, agen-  
31 cy, association, organization or lessee that uses or operates a vehicle  
32 with or without the permission of the owner, and an owner who operates  
33 such owner's own vehicle.

34 (e) A certificate, sworn to or affirmed by a technician employed by  
35 the village in which the charged violation occurred, or a facsimile  
36 thereof, based upon inspection of photographs, microphotographs, vide-  
37 otape or other recorded images produced by a stop sign photo violation  
38 monitoring system, shall be prima facie evidence of the facts contained  
39 therein. Any photographs, microphotographs, videotape or other recorded  
40 images evidencing such a violation shall be available for inspection in  
41 any proceeding to adjudicate the liability for such violation pursuant  
42 to a local law or ordinance adopted pursuant to this section.

43 (f) An owner liable for a violation of subdivision (a) of section  
44 eleven hundred seventy-two of this article pursuant to a local law or  
45 ordinance adopted pursuant to this section shall be liable for monetary  
46 penalties in accordance with a schedule of fines and penalties to be set  
47 forth in such local law or ordinance. The liability of the owner pursu-  
48 ant to this section shall not exceed fifty dollars for each violation;  
49 provided, however, that such local law or ordinance may provide for an  
50 additional penalty not in excess of twenty-five dollars for each  
51 violation for the failure to respond to a notice of liability within the  
52 prescribed time period.

53 (g) An imposition of liability under a local law or ordinance adopted  
54 pursuant to this section shall not be deemed a conviction as an operator  
55 and shall not be made part of the operating record of the person upon

1 whom such liability is imposed nor shall it be used for insurance  
2 purposes in the provision of motor vehicle insurance coverage.

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

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

16 3. The notice of liability shall contain information advising the  
17 person charged of the manner and the time in which such person may  
18 contest the liability alleged in the notice. Such notice of liability  
19 shall also contain a warning to advise the persons charged that failure  
20 to contest in the manner and time provided shall be deemed an admission  
21 of liability and that a default judgment may be entered thereon.

22 4. The notice of liability shall be prepared and mailed by the village  
23 where the alleged violation occurred or by any other entity authorized  
24 by such village to prepare and mail such notification of violation.

25 (i) Adjudication of the liability imposed upon owners by this section  
26 shall be by the court having jurisdiction over traffic infractions.

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

38 (k) An owner who is a lessor of a vehicle to which a notice of liabil-  
39 ity was issued pursuant to subdivision (h) of this section shall not be  
40 liable for the violation of subdivision (a) of section eleven hundred  
41 seventy-two of this article, provided that such owner sends to the traf-  
42 fic violations bureau or court having jurisdiction a copy of the rental,  
43 lease or other such contract document covering such vehicle on the date  
44 of the violation, with the name and address of the lessee clearly legi-  
45 ble, within thirty-seven days after receiving notice from the bureau or  
46 court of the date and time of such violation, together with the other  
47 information contained in the original notice of liability. Failure to  
48 send such information within such thirty-seven day time period shall  
49 render the owner liable for the penalty prescribed by this section.  
50 Where the lessor complies with the provisions of this subdivision, the  
51 lessee of such vehicle on the date of such violation shall be deemed to  
52 be the owner of such vehicle for purposes of this section, shall be  
53 subject to liability for the violation of subdivision (a) of section  
54 eleven hundred seventy-two of this article pursuant to this section and  
55 shall be sent a notice of liability pursuant to subdivision (h) of this  
56 section.

1 (1) 1. If the owner liable for a violation of subdivision (a) of  
2 section eleven hundred seventy-two of this article pursuant to this  
3 section was not the operator of the vehicle at the time of the  
4 violation, the owner may maintain an action for indemnification against  
5 the operator.

6 2. Notwithstanding any other provision of this section, no owner of a  
7 vehicle shall be subject to a monetary fine imposed pursuant to this  
8 section if the operator of such vehicle was operating such vehicle with-  
9 out the consent of the owner at the time such operator failed to obey a  
10 stop sign. For purposes of this subdivision there shall be a presumption  
11 that the operator of such vehicle was operating such vehicle with the  
12 consent of the owner at the time such operator failed to obey a stop  
13 sign.

14 (m) Nothing in this section shall be construed to limit the liability  
15 of an operator of a vehicle for any violation of subdivision (a) of  
16 section eleven hundred seventy-two of this article.

17 (n) Any village that adopts a demonstration program pursuant to subdivi-  
18 vision (a) of this section shall submit an annual report detailing the  
19 results of the use of such stop sign photo violation monitoring system  
20 to the governor, the temporary president of the senate and the speaker  
21 of the assembly on or before the first day of June next succeeding the  
22 effective date of this section and on the same date in each succeeding  
23 year in which the demonstration program is operable. Such report shall  
24 include, but not be limited to:

25 1. a description of the locations where stop sign photo violation  
26 monitoring systems were used;

27 2. the aggregate number, type and severity of accidents reported at  
28 intersections where a stop sign photo violation monitoring system is  
29 used for the three years preceding the installation of such system, to  
30 the extent the information is maintained by the department;

31 3. the aggregate number, type and severity of accidents reported at  
32 intersections where a stop sign photo violation monitoring system is  
33 used for the reporting year, as well as for each year that the stop sign  
34 photo violation monitoring system has been operational, to the extent  
35 the information is maintained by the department;

36 4. the number of events and number of violations recorded at each  
37 intersection where a stop sign photo violation monitoring system is used  
38 and in the aggregate on a daily, weekly and monthly basis;

39 5. the number of notices of liability issued for violations recorded  
40 by such system at each intersection where a stop sign photo violation  
41 monitoring system is used;

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

44 7. the number and percentage of violations adjudicated and results of  
45 such adjudications including breakdowns of dispositions made for  
46 violations recorded by such systems which shall be provided at least  
47 annually to such village by the respective courts and bureaus conducting  
48 such adjudications;

49 8. the total amount of revenue realized by such village from such  
50 adjudications including a breakdown of revenue realized by such village  
51 for each year since deployment of its stop sign photo violation monitor-  
52 ing system;

53 9. expenses incurred by such village in connection with the program;  
54 and

1     10. quality of the adjudication process and its results which shall be  
2     provided at least annually to such village by the respective courts  
3     conducting such adjudications.  
4     § 3. This act shall take effect on the ninetieth day after it shall  
5     have become a law.