STATE OF NEW YORK

9734

IN SENATE

May 23, 2024

Introduced by Sen. COMRIE -- (at request of the NYC Finance) -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the administrative code of the city of New York, in relation to the contents and adjudication, of notices of violation returnable to a parking violations bureau, and to increase the fine for tractors, trailers, or related vehicles that park on residential streets overnight

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

Section 1. Subdivision 2 of section 237 of the vehicle and traffic law, as amended by chapter 458 of the laws of 2010, is amended to read as follows:

2. To provide for penalties other than imprisonment for (a) parking violations in accordance with a schedule of monetary fines and penalties, provided however, that monetary penalties shall not exceed fifty dollars for each parking violation other than (i) in a city with a population of one million or more, violations committed in spaces where stopping or standing is prohibited for which monetary penalties shall not exceed one hundred dollars and, (ii) handicapped parking violations for which monetary penalties shall not exceed one hundred fifty dollars; and (b) abandoned vehicle violations, except in a city with a population of one million or more, provided however, that monetary penalties shall not be less than two hundred fifty dollars nor more than one thousand dollars for each abandoned vehicle violation; and (c) a city with a population of one million or more may impose a monetary penalty of up to [~~two hundred fifty~~] **one thousand** dollars for [~~a first~~] **each** offense [~~and up to five hundred dollars for subsequent offenses within a six month period~~] for tractor-trailer combinations, tractors, truck trailers [~~and~~], semi-trailers**, and semi-trailers without a towing vehicle attached** parked overnight on streets in residential neighborhoods;

§ 2. Subdivision 2 of section 238 of the vehicle and traffic law, as amended by chapter 224 of the laws of 1995, is amended to read as follows:

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

LBD11660-02-4

2. A notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service, and [~~his~~] such operator's name, together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date, provided that where the vehicle has no such registration plate issued by the commissioner, the commissioner's agent, or the equivalent official or agents from another state, territory, district, province, nation or other jurisdiction, or where such registration plate is concealed or obscured, the vehicle identification number may be inserted in such notice in place of or in addition to the plate designation and plate type; the make or model, and, provided that a body type is indicated on the registration sticker of said vehicle, the body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date, time and particular place of occurrence of the charged violation, shall be inserted therein. A mere listing of a meter number in cases of charged meter violations shall not be deemed to constitute a sufficient description of a particular place of occurrence for purposes of this subdivision. The notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever such notice is so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together with the expiration date, provided that where the vehicle has no such registration plate issued by the commissioner, the commissioner's agent, or the equivalent official or agents from another state, territory, district, province, nation or other jurisdiction, or where such registration plate is concealed or obscured, the vehicle identification number may be inserted in such notice in place of or in addition to the plate designation and plate type; the make or model, and, provided that a body type is indicated on the registration sticker of said vehicle, the body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation where appropriate; and the date, time and particular place of occurrence of the charged violation. Service of the notice of violation, or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was personally served with the name of the person charged with the violation inserted therein.

§ 3. Paragraph (a) of subdivision 2-a of section 238 of the vehicle and traffic law, as added by chapter 224 of the laws of 1995, is amended to read as follows:

(a) Notwithstanding any inconsistent provision of subdivision two of this section, where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, **or cannot be located on such vehicle,** the plate type or the expiration date may be omitted from the notice of violation; provided, however, [~~such~~] **that the** condition **or absence of such plates or sticker** must be so described and inserted on the notice of violation **and that supporting photographic documentation may be provided**.

§ 4. Subparagraph (ii) of paragraph (c) of subdivision 2-a of section 238 of the vehicle and traffic law, as added by chapter 409 of the laws of 2001, is amended to read as follows:

(ii) Notice shall be served on the owner by mail to the last known registered address within **the greater of six years of the date of the dismissal or** two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or [~~his or her~~] **such person's** agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon.

§ 5. Section 242 of the vehicle and traffic law is amended by adding a new subdivision 3-a to read as follows:

3-a. Notwithstanding any provision of this section to the contrary, in cities having a population of one million or more persons, an administrative appeal of a determination regarding a notice of violation served on an owner or operator of a commercial vehicle, as such term is defined in section 4-01 of title thirty-four of the rules of the city of New York, shall be conducted only when an appellant has either:

(a) posted a bond in the amount of the determination appealed from; or

(b) paid to the parking violations bureau the following penalties and surcharges, as applicable:

(i) any penalty imposed pursuant to a notice of liability issued pursuant to a program authorized by section three hundred eighty-five-a, eleven hundred eleven-a, eleven hundred eleven-c, eleven hundred eleven-c-one, or eleven hundred eighty-b of this chapter, other than any additional penalty imposed for failure to respond to a notice of liability within the prescribed time period; and

(ii) any surcharge levied pursuant to a notice of violation issued in accordance with sections eighteen hundred nine-a and eighteen hundred nine-b of this chapter.

§ 6. Subdivision 6 of section 242 of the vehicle and traffic law, as added by chapter 515 of the laws of 2004, is amended to read as follows:

6. When charges have been overturned by a court or any other administrative body or officer, the party in whose favor the appeal is decided shall be entitled to have returned an amount equal to any fine or penalty imposed and collected from the parking violations bureau**, less an**

amount equal to any such penalty described in subparagraph (i) of paragraph (b) of subdivision three-a of this section that was paid after the time period to contest the notice of liability has expired, within thirty days of the entry of the judgement; provided, however, that such court, administrative body or officer shall have the authority to lessen from such amount any debt owed by such party and shall apply this amount to any outstanding fines and penalties owed by the same individual. If payment is not made within thirty days, a penalty shall accrue at the same rate as that imposed for failure to make timely payment of a fine and shall be paid by the parking violations bureau; provided, however, that in a city with a population of one million or more, where such amount exceeds five thousand dollars, a court may extend the time for a parking violations bureau to return such an amount to a reasonable period of time after entry of the judgment.

§ 7. Subdivisions (a) and (b) of section 1204 of the vehicle and traffic law, as amended by chapter 193 of the laws of 1974, are amended to read as follows:

(a) Whenever any police officer, or in a city having a population in excess of one million any person designated by the commissioner of [~~traffic~~] transportation of such city or on highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority any person designated by such office, commission or authority, finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway.

(b) 1. Whenever any police officer, or in a city having a population in excess of one million any person designated by the commissioner of [~~traffic~~] transportation of such city or on highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority any person designated by such office, commission or authority finds a vehicle unattended where it constitutes an obstruction to traffic, or any place where stopping, standing or parking is prohibited, such officer is hereby authorized to provide for the removal of such vehicle, semitrailer or trailer to a garage, automobile pound or other place of safety.

2. In any city with a population of one million or more, whenever any police officer, or any person designated by the commissioner of [~~traffic~~] transportation, finds a tractor-trailer combination, tractor, truck trailer, semitrailer or trailer without a tractor or towing vehicle attached, parked or unattended on any city street, such officer or person designated by [~~the~~] such commissioner [~~of traffic~~] is hereby authorized to provide for the removal of such [~~semitrailer~~] vehicle or trailer to a garage, automobile pound or other place of safety. In addition to any other charge authorized by this section, the owner or other person lawfully entitled to the possession of such vehicle or trailer, other than such a vehicle or trailer found parked or unattended while connected to a state sanctioned film or television production, shall be subject to a fine of up to one thousand dollars.

§ 8. Subdivision c of section 19-170 of the administrative code of the city of New York, as amended by local law number 74 of the city of New York for the year 2019, is amended to read as follows:

c. 1. Except as otherwise provided in [~~paragraphs 2 and 3~~] paragraph two of this subdivision, a violation of this section shall be punishable by the monetary fine authorized for violation of the rules and regulations of the commissioner in paragraph [~~1~~] one of subdivision a of section [~~2903~~] twenty-nine hundred three of the charter.

2. A [~~first~~] violation of this section, when the commercial vehicle is a tractor-trailer combination, tractor, truck trailer [~~or~~], semi-trailer or semi-trailer without a towing vehicle attached, shall be punishable by a monetary [~~fine~~] penalty of [~~$250~~] up to one thousand dollars. [~~Any such subsequent violation of this section by the same owner, as defined in paragraph a of subdivision 1 of section 239 of the vehicle and traffic law, within a six month period shall be punishable by a monetary fine of $500.~~

~~3. As an alternative to any other means of enforcement of this subdivision authorized by law, a first violation of subdivision b of this section, when the commercial vehicle is a tractor-trailer combination, tractor, truck trailer or semi-trailer, shall be punishable by a civil penalty of $400. Any such subsequent violation of subdivision b of this section by the same owner, as defined in paragraph a of subdivision 1 of section 239 of the vehicle and traffic law, within a six month period shall be punishable by a civil penalty of $800. Such civil penalties shall be recoverable in a proceeding before the office of administrative trials and hearings.~~]

§ 9. This act shall take effect immediately, provided that section four of this act shall apply with respect to any determination made on or after the first day of the first month succeeding the sixtieth day after this act shall have become a law.