

# STATE OF NEW YORK

6383

2025-2026 Regular Sessions

## IN SENATE

March 12, 2025

Introduced by Sen. KAVANAGH -- 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 public officers law, in relation to authorizing covered agencies and authorities to use weigh-in-motion technology to automatically enforce vehicle weight limits on their facilities

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 385-b to read as follows:

3 § 385-b. Owner liability for failure of operator to comply with weight  
4 restrictions on a covered agency and authority's facilities. 1. (a)  
5 Notwithstanding any other provision of law, a covered agency or authori-  
6 ty may establish a weigh-in-motion program on its facilities imposing  
7 monetary liability on the owner of a vehicle for failure of an operator  
8 thereof to comply with gross vehicle weight and/or axle weight  
9 restrictions on such facilities in accordance with the provisions of  
10 this section. Such program shall empower the covered agency or authority  
11 to install and operate weigh-in-motion violation monitoring systems on  
12 its facilities. Such systems may be activated at locations on such  
13 portion of its facilities as determined by the covered agency or author-  
14 ity. A covered agency or authority may enter into a memorandum of agree-  
15 ment with another covered agency or authority for the purposes of coor-  
16 dinating the planning, design, installation, operation, construction and  
17 maintenance of such weigh-in-motion program. Such memorandum shall  
18 address, for purposes of such program, the use of systems, devices and  
19 other facilities owned and operated by the other covered agency or  
20 authority.

21 (b) No weigh-in-motion violation monitoring system shall be used  
22 unless: (i) on the day it is to be used it has undergone a self-test  
23 for the operation of such system; and (ii) it has undergone an annual

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

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1 calibration check performed pursuant to paragraph (c) of this subdivi-  
2 sion. A result of the daily self-test for each such system shall include  
3 the date and time that the self-test was successfully performed. The  
4 covered agency or authority shall retain each such daily self-test until  
5 the later of the date on which the weigh-in-motion system to which it  
6 applies has been permanently removed from use or the final resolution of  
7 all cases involving notices of liability issued based on photographs,  
8 microphotographs, video or other recorded images, and information and  
9 data generated in conjunction therewith, produced by such system.

10 (c) Each weigh-in-motion violation monitoring system shall undergo a  
11 calibration check every twelve months in accordance with specifications  
12 prescribed pursuant to a memorandum of agreement between the covered  
13 agency or authority and the New York state department of agriculture and  
14 markets, or in accordance with an applicable reference standard as  
15 determined by the covered agency or authority. Such calibration check  
16 shall be performed by an independent calibration laboratory, which shall  
17 issue a signed certificate of calibration on its letterhead to the  
18 covered agency or authority. Nothing contained in this paragraph shall  
19 be deemed to require the signature of a notary public on such certifi-  
20 cate. The covered agency or authority shall retain each such annual  
21 certificate of calibration on file until the final resolution of all  
22 cases involving notices of liability issued during such twelve-month  
23 time period which were based on photographs, microphotographs, video or  
24 other recorded images, and information and data generated in conjunction  
25 therewith, produced by such weigh-in-motion violation monitoring system.

26 (d) The covered agency or authority shall monitor the system by evalu-  
27 ating information and data collected from sensor readings of each weigh-  
28 in-motion violation monitoring system. The covered agency or authority  
29 shall promulgate rules for monitoring collected data, responding to  
30 system alerts, and establishing a protocol for action which may include  
31 recertification.

32 (e) Weigh-in-motion violation monitoring systems used in accordance  
33 with the weigh-in-motion program authorized pursuant to this section  
34 shall be operated only on the covered agency or authority's facilities  
35 or on another agency or authority's facilities if agreed upon in a memo-  
36 randum of agreement.

37 (f) (i) No photograph, microphotograph, videotape or other recorded  
38 image, nor any information and data generated in conjunction therewith,  
39 shall be used for any purpose other than as specified in this section,  
40 except as may be otherwise provided by this paragraph. Notwithstanding  
41 the above, all information and data from weigh-in-motion violation moni-  
42 toring systems may be shared among covered agencies and authorities for  
43 the purposes of monitoring impacts to a covered agency or authority's  
44 facilities and for reporting purposes.

45 (ii) Such program shall utilize necessary technologies to ensure, to  
46 the extent practicable, that photographs, microphotographs, videotape or  
47 other recorded images produced by such weigh-in-motion violation moni-  
48 toring systems shall not include images that identify the driver, the  
49 passengers, or the contents of the vehicle. Provided, however, that no  
50 notice of liability issued pursuant to this section shall be dismissed  
51 solely because such a photograph, microphotograph, videotape or other  
52 recorded image allows for the identification of the driver, the passen-  
53 gers, or the contents of vehicles where the covered agency or authority  
54 shows that it made reasonable efforts to comply with the provisions of  
55 this paragraph in such case.

1 (iii) Photographs, microphotographs, videotape or any other recorded  
2 image, and any information and data generated in conjunction therewith,  
3 produced by a weigh-in-motion violation monitoring system shall be for  
4 the exclusive use of the covered agency or authority, or by use of  
5 another covered agency or authority adjudicating on behalf of a covered  
6 agency, for the purpose of the adjudication of liability imposed pursu-  
7 ant to this section, and of the owner receiving a notice of liability  
8 pursuant to this section, and as required by the covered agency or  
9 authority to study the impact of overweight vehicles on its facilities  
10 and management of such facilities, and shall be destroyed by the covered  
11 agency or authority, or another covered agency or authority where appli-  
12 cable, upon the final resolution of the notice of liability to which  
13 such photographs, microphotographs, videotape or other recorded images  
14 and information and data generated in conjunction therewith relate, or  
15 one year following the date of issuance of such notice of liability,  
16 whichever is later. Notwithstanding the provisions of any other law,  
17 rule or regulation to the contrary, photographs, microphotographs, vide-  
18 otape or any other recorded image, and information and data generated in  
19 conjunction therewith, from a weigh-in-motion violation monitoring  
20 system shall not be open to the public, nor subject to civil or criminal  
21 process or discovery, nor used by any court or administrative or judi-  
22 catory body in any action or proceeding therein except that which is  
23 necessary for the adjudication of a notice of liability issued pursuant  
24 to this section, and no public entity or employee, officer or agent  
25 thereof shall disclose such information, except that such photographs,  
26 microphotographs, videotape or any other recorded images, and informa-  
27 tion and data generated in conjunction therewith, from such systems:

28 (A) shall be available for inspection and copying and use by the motor  
29 vehicle owner and operator for so long as such photographs, microphoto-  
30 graphs, videotape or other recorded images, information and data are  
31 required to be maintained or are maintained by such public entity,  
32 employee, officer or agent; and

33 (B) (1) shall be furnished when described in a search warrant issued  
34 by a court authorized to issue such a search warrant pursuant to article  
35 six hundred ninety of the criminal procedure law or a federal court  
36 authorized to issue such a search warrant under federal law, where such  
37 search warrant states that there is reasonable cause to believe such  
38 information constitutes evidence of, or tends to demonstrate that, a  
39 misdemeanor or felony offense was committed in this state or another  
40 state, or that a particular person participated in the commission of a  
41 misdemeanor or felony offense in this state or another state, provided,  
42 however, that if such offense was against the laws of another state, the  
43 court shall only issue a warrant if the conduct comprising such offense  
44 would, if occurring in this state, constitute a misdemeanor or felony  
45 against the laws of this state; and

46 (2) shall be furnished in response to a subpoena duces tecum signed by  
47 a judge of competent jurisdiction and issued pursuant to article six  
48 hundred ten of the criminal procedure law or a judge or magistrate of a  
49 federal court authorized to issue such a subpoena duces tecum under  
50 federal law, where the judge finds and the subpoena states that there is  
51 reasonable cause to believe such information is relevant and material to  
52 the prosecution, or the defense, or the investigation by an authorized  
53 law enforcement official, of the alleged commission of a misdemeanor or  
54 felony in this state or another state, provided, however, that if such  
55 offense was against the laws of another state, such judge or magistrate  
56 shall only issue such subpoena if the conduct comprising such offense

1 would, if occurring in this state, constitute a misdemeanor or felony in  
2 this state; and

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

6 (iv) The covered agency or authority shall install signage in advance  
7 of locations where weigh-in-motion violation monitoring systems are in  
8 operation giving notice to approaching motor vehicle operators that  
9 weigh-in-motion violation monitoring systems are in use to enforce motor  
10 vehicle weight restrictions.

11 (v) The covered agency or authority shall use oversight procedures to  
12 ensure compliance with the aforementioned privacy protection measures.

13 2. If the covered agency or authority establishes a program pursuant  
14 to subdivision one of this section, the owner of a vehicle shall be  
15 liable for a penalty imposed pursuant to this section if such vehicle  
16 was used or operated with the permission of the owner, express or  
17 implied, on the covered agency's or authority's facilities in violation  
18 of section three hundred eighty-five of this article and the rules and  
19 regulations of the covered agency or authority in relation to gross  
20 vehicle weight and/or axle weight, where such vehicle was traveling ten  
21 percent or more above the gross vehicle weight or twenty percent or more  
22 above the axle weight at the time of such violation as indicated by at  
23 least two independently detected gross vehicle weight and/or axle weight  
24 measurements obtained by a weigh-in-motion violation monitoring system,  
25 and such violation is evidenced by information obtained from a weigh-in-  
26 motion violation monitoring system; provided however that no owner of a  
27 vehicle shall be liable for a penalty imposed pursuant to this section  
28 where the operator of such vehicle: has been convicted of the underlying  
29 violation of section three hundred eighty-five of this article and the  
30 rules and regulations of the covered agency or authority in relation to  
31 gross vehicle weight and/or axle weight; or operated such vehicle in  
32 accordance with the terms and conditions of any overweight permit issued  
33 in accordance with this chapter and any rules and regulations promulgat-  
34 ed thereto. Where a vehicle is in violation of both gross vehicle weight  
35 restrictions and axle weight restrictions, the owner shall be liable for  
36 a separate penalty for each such violation.

37 3. For purposes of this section, the following terms shall have the  
38 following meanings:

39 (a) "covered agency or authority" shall mean: (i) the department of  
40 transportation established pursuant to article two of the transportation  
41 law; (ii) the Triborough bridge and tunnel authority established pursu-  
42 ant to title three of article three of the public authorities law; (iii)  
43 the state bridge authority established pursuant to title two of article  
44 three of the public authorities law; (iv) the port authority of New York  
45 and New Jersey established pursuant to chapter one hundred fifty-four of  
46 the laws of nineteen hundred twenty-one; (v) the New York city depart-  
47 ment of transportation; and (vi) the New York state thruway authority  
48 established pursuant to title nine of article two of the public authori-  
49 ties law;

50 (b) "owner" shall have the meaning provided in section two hundred  
51 thirty-nine of this chapter;

52 (c) "weigh-in-motion violation monitoring system" shall mean sensors,  
53 capable of operating independently of an enforcement officer, installed  
54 to work in conjunction with other devices to capture and record the  
55 gross vehicle weight and the axle weight of a motor vehicle, which  
56 produce at least two independently detected gross vehicle weight and/or

1 axle weight measurements and automatically produce two or more photo-  
2 graphs, two or more microphotographs, a videotape or other recorded  
3 images of each vehicle at the time it is used or operated in violation  
4 of section three hundred eighty-five of this article and the rules and  
5 regulations of the covered agency or authority in relation to gross  
6 vehicle weight and/or axle weight, in accordance with the provisions of  
7 this section;

8 (d) "weigh-in-motion program" shall mean the program authorized by  
9 this section that operates exclusively on covered agency or authority  
10 facilities;

11 (e) "covered agency or authority facilities" shall mean those sites  
12 including but not limited to roadways, bridges, and highways owned,  
13 operated and maintained by a covered agency or authority; and

14 (f) "rules and regulations of a covered agency or authority" shall  
15 mean rules and regulations of an agency or authority described in para-  
16 graph a of this subdivision.

17 4. A certificate, sworn to or affirmed by a technician employed by a  
18 covered agency or authority or its agent, or a facsimile thereof, based  
19 upon inspection of photographs, microphotographs, videotape or other  
20 recorded images, and information and data generated in conjunction ther-  
21 ewith, produced by a weigh-in-motion violation monitoring system, shall  
22 be prima facie evidence of the facts contained therein. Nothing  
23 contained in this subdivision shall be deemed to require the signature  
24 of a notary public on such certificate. Any photographs, microphoto-  
25 graphs, videotape or other recorded images evidencing such a violation  
26 shall include an image of the motor vehicle alleged to be in violation  
27 and the information and data generated in conjunction therewith and  
28 shall be available for inspection reasonably in advance of and at any  
29 proceeding to adjudicate the liability for such violation pursuant to  
30 this section.

31 5. An owner liable for a violation of section three hundred eighty-  
32 five of this article and the rules and regulations of a covered agency  
33 or authority pursuant to a weigh-in-motion program established pursuant  
34 to this section shall be liable for monetary penalties in accordance  
35 with separate schedules of fines and penalties to be promulgated by a  
36 covered agency or authority for a violation of section three hundred  
37 eighty-five of this article and the rules and regulations of a covered  
38 agency or authority in relation to gross vehicle weight and/or axle  
39 weight. The liability of the owner pursuant to this section shall not  
40 exceed three thousand seven hundred fifty dollars for each violation or  
41 as otherwise provided for in section three hundred eighty-five of this  
42 article, whichever is higher.

43 6. An imposition of liability under the weigh-in-motion program estab-  
44 lished pursuant to this section shall not be deemed a conviction for an  
45 operator.

46 7. (a) A notice of liability shall be sent by first class mail to each  
47 person alleged to be liable as an owner for a violation of section three  
48 hundred eighty-five of this article and the rules and regulations of a  
49 covered agency or authority in relation to gross vehicle weight and/or  
50 axle weight pursuant to this section, within fourteen business days if  
51 such owner is a resident of this state and within forty-five business  
52 days if such owner is a non-resident. Personal delivery on the owner  
53 shall not be required. A manual or automatic record of mailing prepared  
54 in the ordinary course of business shall be prima facie evidence of the  
55 facts contained therein.

1 (b) 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 section three  
3 hundred eighty-five of this article and the rules and regulations of a  
4 covered agency or authority in relation to gross vehicle weight and/or  
5 axle weight pursuant to this section, the registration number of the  
6 vehicle involved in such violation, the gross vehicle weight and/or axle  
7 weight measured, the location where such violation took place, the date  
8 and time of such violation, the identification number of the weigh-in-  
9 motion violation monitoring system which recorded the violation or other  
10 document locator number, one or more date and time stamped images iden-  
11 tifying the motor vehicle and the information and data evidencing the  
12 alleged violation, and the certificate charging the liability.

13 (c) The notice of liability shall contain information advising the  
14 person charged of the manner and the time in which they may contest the  
15 liability alleged in the notice. Such notice of liability shall also  
16 contain a prominent warning to advise the person charged that failure to  
17 contest in the manner and time provided shall be deemed an admission of  
18 liability and that a default judgment may be entered thereon.

19 (d) The notice of liability shall be prepared and mailed by the  
20 covered agency or authority, or by any other entity authorized by the  
21 covered agency or authority to prepare and mail such notice of liabil-  
22 ity.

23 8. Adjudication of the liability imposed upon owners pursuant to this  
24 section shall be by the covered agency or authority, or by any other  
25 government entity authorized by the covered agency or authority to adju-  
26 dicade such liability. If such entity is the New York city parking  
27 violations bureau, such liability imposed pursuant to this section may  
28 only occur within the city of New York.

29 9. If an owner receives a notice of liability pursuant to this section  
30 for any time period during which the vehicle or the number plate or  
31 plates of such vehicle was reported to the police department as having  
32 been stolen, it shall be a valid defense to an allegation of liability  
33 for a violation of section three hundred eighty-five of this article and  
34 the rules and regulations of the covered agency or authority in relation  
35 to gross vehicle weight and/or axle weight pursuant to this section that  
36 the vehicle or the number plate or plates of such vehicle had been  
37 reported to the police as stolen prior to the time the violation  
38 occurred and had not been recovered by such time. For purposes of  
39 asserting the defense provided by this subdivision, it shall be suffi-  
40 cient that a certified copy of the police report on the stolen vehicle  
41 or number plate or plates of such vehicle be sent by first class mail to  
42 the covered agency or authority.

43 10. (a) An owner who is a lessor of a vehicle to which a notice of  
44 liability was issued pursuant to subdivision seven of this section shall  
45 not be liable for the violation of section three hundred eighty-five of  
46 this article and the rules and regulations of the covered agency or  
47 authority in relation to gross vehicle weight and/or axle weight pursu-  
48 ant to this section, provided that:

49 (i) prior to the violation, the lessor has filed the rental, lease or  
50 other contract document with the name and address of the lessee with the  
51 covered agency or authority in accordance with the provisions of subdi-  
52 vision ten of section twenty-nine hundred eighty-five of the public  
53 authorities law or section two hundred thirty-nine of this chapter, as  
54 applicable; and

55 (ii) within thirty-seven days after receiving notice from the covered  
56 agency or authority of the date and time of a liability, together with

1 the other information contained in the original notice of liability, the  
2 lessor submits to such covered agency or authority the correct name and  
3 address of the lessee of the vehicle identified in the notice of liabil-  
4 ity at the time of such violation, together with such other additional  
5 information contained in the rental, lease or other contract document,  
6 as may be reasonably required by the covered agency or authority pursu-  
7 ant to regulations that may be promulgated for such purpose.

8 (b) Failure to comply with subparagraph (ii) of paragraph (a) of this  
9 subdivision shall render the lessor liable for the penalty prescribed in  
10 this section.

11 (c) Where the lessor complies with the provisions of paragraph (a) of  
12 this subdivision, the lessee of such vehicle on the date of such  
13 violation shall be deemed to be the owner of such vehicle for purposes  
14 of this section, shall be subject to liability for such violation pursu-  
15 ant to this section and shall be sent a notice of liability pursuant to  
16 subdivision seven of this section.

17 11. (a) If the owner liable for a violation of section three hundred  
18 eighty-five of this article and the rules and regulations of the covered  
19 agency or authority in relation to gross vehicle weight and/or axle  
20 weight pursuant to this section was not the operator of the vehicle at  
21 the time of the violation, the owner may maintain an action for indemni-  
22 fication against the operator.

23 (b) Notwithstanding any other provision of this section, no owner of a  
24 vehicle shall be subject to a monetary fine imposed pursuant to this  
25 section if the operator of such vehicle was operating such vehicle with-  
26 out the consent of the owner at the time such operator operated such  
27 vehicle in violation of section three hundred eighty-five of this arti-  
28 cle and the rules and regulations of the covered agency or authority in  
29 relation to gross vehicle weight and/or axle weight. For purposes of  
30 this subdivision there shall be a presumption that the operator of such  
31 vehicle was operating such vehicle with the consent of the owner at the  
32 time such operator operated such vehicle in violation of section three  
33 hundred eighty-five of this article and the rules and regulations of the  
34 covered agency or authority in relation to gross vehicle weight and/or  
35 axle weight.

36 12. Nothing in this section shall be construed to limit the liability  
37 of an operator of a vehicle for any violation of section three hundred  
38 eighty-five of this article and the rules and regulations of the covered  
39 agency or authority in relation to gross vehicle weight and/or axle  
40 weight.

41 13. It shall be a defense to any prosecution for a violation of  
42 section three hundred eighty-five of this article and the rules and  
43 regulations of the covered agency or authority in relation to gross  
44 vehicle weight and/or axle weight pursuant to this section that such  
45 weigh-in-motion violation monitoring system was malfunctioning at the  
46 time of the alleged violation.

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

49 (v) are photographs, microphotographs, videotape or other recorded  
50 images or information and data prepared under authority of section three  
51 hundred eighty-five-b of the vehicle and traffic law.

52 § 3. A covered agency or authority shall: (i) prior to implementing a  
53 weigh-in-motion program as authorized by section 385-b of the vehicle  
54 and traffic law, as added by section one of this act, communicate to the  
55 public the plan for the use of vehicle weigh-in-motion violation moni-  
56 toring systems to enforce vehicle weight restrictions so as to maximize

1 awareness of such program; (ii) during the first 60-day period in which  
2 weigh-in-motion violation monitoring systems are in operation pursuant  
3 to the provisions of this act send by first class mail a written warning  
4 in lieu of a notice of liability to all owners of motor vehicles who  
5 would be held liable for failure of operators thereof to comply with  
6 section 385-b of the vehicle and traffic law in relation to gross vehi-  
7 cle weight and/or axle weight, together with notice of the weigh-in-mo-  
8 tion program authorized by section 385-b of the vehicle and traffic law;  
9 and (iii) take such measures as are necessary to implement such program  
10 prior to its implementation, including promulgating any rules and regu-  
11 lations necessary for the implementation of this act.

12 § 4. The purchase or lease of equipment for a demonstration program  
13 pursuant to section 385-b of the vehicle and traffic law shall be  
14 subject to the provisions of section 103 of the general municipal law.

15 § 5. This act shall take effect immediately.