STATE OF NEW YORK

7995

2025-2026 Regular Sessions

IN ASSEMBLY

April 16, 2025

Introduced by M. of A. SIMON -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the weigh in motion demonstration program on interstate route 278 in Kings county; and to amend chapter 773 of the laws of 2021, amending the vehicle and traffic law and the public officers law relating to establishing a demonstration program on interstate route 278 in Kings county to enforce vehicle weight restriction on such interstate by means of mobile or stationary weigh in motion systems, in relation to extending the provisions thereof

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

Section 1. Section 385-a of the vehicle and traffic law, as added by chapter 773 of the laws of 2021, paragraph 3 of subdivision (a) as amended by chapter 253 of the laws of 2023, is amended to read as follows:

§ 385-a. Owner liability for failure of operator to comply with weight restrictions on interstate route 278 in Kings county. (a) 1. Notwithstanding any other provision of law, the city of New York is hereby authorized to establish a weigh in motion demonstration program on interstate route 278 in Kings county imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with gross vehicle weight and/or axle weight restrictions on such portion of such interstate in accordance with the provisions of this section. Such demonstration program shall empower the city of New York to install and operate up to sixteen weigh in motion violation monitoring systems at any one time on interstate route 278 in Kings county. Such systems may be stationary or mobile and may be activated at locations on such portion of such interstate as determined by the New York city department of transportation. The New York state department of transportation may enter into a memorandum of [~~understanding~~] **agreement** with the New York

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

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city department of transportation for the purposes of coordinating the planning, design, installation, construction and maintenance of such weigh in motion demonstration program. Such memorandum shall address, for purposes of such demonstration program, the use of systems, devices and other facilities owned and operated by the state.

2. No weigh in motion violation monitoring system shall be used unless (i) on the day it is to be used it has undergone a self-test for the operation of such system; and (ii) it has undergone a [~~semi-annual~~] calibration check performed pursuant to paragraph three of this subdivision. A result of the daily self-test for each such system shall include the date and time that the self-test was successfully performed. The city of New York shall retain each such daily self-test until the later of the date on which the weigh in motion system to which it applies has been permanently removed from use or the final resolution of all cases involving notices of liability issued based on photographs, microphotographs, video or other recorded images, and **identifying** information [~~and~~] **or** data generated in conjunction therewith, produced by such system.

3. Each weigh in motion violation monitoring system shall undergo a calibration check every [~~six~~] **twelve** months in accordance with specifications prescribed pursuant to a memorandum of agreement between the New York city department of transportation and the New York state department of agriculture and markets, or in accordance with an applicable reference standard as determined by the New York city department of transportation. Such calibration check shall be performed by an independent calibration laboratory which shall issue a signed certificate of calibration on its letterhead to the city of New York. Nothing contained in this paragraph shall be deemed to require the signature of a notary public on such certificate. The city shall retain each such [~~bi-annual~~] **annual** certificate of calibration on file until the final resolution of all cases involving notices of liability issued during such [~~six-month~~] **twelve-month** time period which were based on photographs, microphotographs, video or other recorded images, and **identifying** information [~~and~~] **or** data generated in conjunction therewith, produced by such weigh in motion violation monitoring system.

4. The New York city department of transportation shall [~~establish a range, according to the manufacturer's standards and its monitoring of the system, for evaluating~~] **monitor each weigh in motion violation monitoring system and evaluate** information and data collected from sensor readings of each [~~weigh in motion violation monitoring~~] **such** system. [~~Each such system shall be set to automatically alert such department of significant variations from the established range during a twenty-four-hour period. After such an alert, such system shall be inspected and any necessary adjustments shall be made.~~] Such department shall [~~keep a log of the details of all alerts, including the date and time of such alert, the amount of variation from the established range in such alert, the adjustments made or actions taken as a result of the subsequent inspection, and the date and time of such inspection, adjustments or actions.~~] **promulgate rules for monitoring collected data and responding to system alerts that indicate a potential malfunction of the system or any component of such system, and establish a protocol for such department to respond to such alerts, including a calibration check described in paragraph three of this subdivision.**

5. Weigh in motion violation monitoring systems used in accordance with the weigh in motion demonstration program authorized pursuant to

this section shall be operated only on interstate route 278 within Kings county.

6. (i) No photograph, microphotograph, videotape or other recorded image, nor any **identifying** information [~~and~~] **or** data generated in conjunction therewith, shall be used for any purpose other than as specified in this section, except as may be otherwise provided by this paragraph.

(ii) Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape**,** or other recorded images produced by such weigh in motion violation monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because such a photograph, microphotograph, videotape**,** or other recorded image allows for the identification of the driver, the passengers, or the contents of vehicles where the city shows that it made reasonable efforts to comply with the provisions of this paragraph in such case.

(iii) Photographs, microphotographs, videotape**,** or any other recorded image, and any **identifying** information [~~and~~] **or** data generated in conjunction therewith, produced by a weigh in motion violation monitoring system shall be for the exclusive use of the city for the purpose of the adjudication of liability imposed pursuant to this section, and of the owner receiving a notice of liability pursuant to this section, and as required by the New York city department of transportation to study the impact of overweight vehicles on interstate route 278 in Kings county and management of such infrastructure, **and as needed by any federal, state, and local governmental entities for the purposes of enforcement against license plate obstruction, concealment, and distortion, and against overweight vehicles,** and shall be destroyed by the city upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images**,** and **identifying** information [~~and~~] **or** data generated in conjunction therewith relate, or one year following the date of issuance of such notice of liability, whichever is later. Notwithstanding the provisions of any other law, rule**,** or regulation to the contrary, photographs, microphotographs, videotape or any other recorded image, and **identifying** information [~~and~~] **or** data generated in conjunction therewith, from a weigh in motion violation monitoring system shall not be open to the public, nor subject to civil or criminal process or discovery, nor used by any court or administrative or adjudicatory body in any action or proceeding therein except that which is necessary for the adjudication of a notice of liability issued pursuant to this section, and no public entity or employee, officer**,** or agent thereof shall disclose such information, except that such photographs, microphotographs, videotape**,** or any other recorded images, and **identifying** information [~~and~~] **or** data generated in conjunction therewith, from such systems:

(A) shall be available for inspection and copying and use by the motor vehicle owner and operator for so long as such photographs, microphotographs, videotape or other recorded images, information [~~and~~] **or** data are required to be maintained or are maintained by such public entity, employee, officer or agent; and

(B) (1) shall be furnished when described in a search warrant issued by a court authorized to issue such a search warrant pursuant to article six hundred ninety of the criminal procedure law or a federal court authorized to issue such a search warrant under federal law, where such

search warrant states that there is reasonable cause to believe such information constitutes evidence of, or tends to demonstrate that, a misdemeanor or felony offense was committed in this state or another state, or that a particular person participated in the commission of a misdemeanor or felony offense in this state or another state, provided, however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a misdemeanor or felony against the laws of this state; and

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

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

(iv) The city of New York shall install signs in advance of [~~entry points to interstate route 278 in Kings county~~] **locations where weigh in motion violation monitoring systems are in operation** giving notice to approaching motor vehicle operators that weigh in motion violation monitoring systems are in use to enforce motor vehicle weight restrictions.

(v) The city of New York shall use oversight procedures to ensure compliance with the aforementioned privacy protection measures.

(b) If the city of New York establishes a demonstration program pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, on interstate route 278 in Kings county in violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight, where such vehicle was traveling ten percent **or more** above the gross vehicle weight **limit** or twenty percent **or more** above the axle weight **limit** at the time of such violation as indicated by at least two independently detected gross vehicle weight and/or axle weight measurements obtained by a weigh in motion violation monitoring system, and such violation is evidenced by information obtained from a weigh in motion violation monitoring system[~~; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle: has been convicted of the underlying violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight; or operated such vehicle in accordance with the terms and conditions of any overweight permit issued in accordance with this chapter and any rules and regulations promulgated thereto~~]. Where a vehicle is in violation of both gross vehicle weight restrictions and axle weight

restrictions, the owner shall be liable for a separate penalty for each such violation.

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

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

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

[~~3.~~] 2. "weigh in motion violation monitoring system" shall mean sensors, capable of operating independently of an enforcement officer, installed to work in conjunction with other devices to capture and record the gross vehicle weight and the axle weight of a motor vehicle, which produce at least two independently detected gross vehicle weight and/or axle weight measurements and automatically produce two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight, in accordance with the provisions of this section; and

[~~4.~~] 3. "weigh in motion demonstration program" shall mean the demonstration program authorized by this section that operates exclusively on interstate route 278 in Kings county.

[~~5.~~] 4. "interstate route 278 in Kings county" shall mean that portion of interstate route 278 specifically from the vicinity of Atlantic avenue to the vicinity of Sands street in Kings county, state of New York.

[~~6. "Rules~~] 5. "rules of the department of transportation of the city of New York" shall mean rules and regulations of the New York city department of transportation adopted pursuant to section sixteen hundred forty-two of this chapter.

(d) A certificate, sworn to or affirmed by a technician employed by the city of New York, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images, [~~and~~] or information [~~and~~] or data generated in conjunction therewith, produced by a weigh in motion violation monitoring system, shall be prima facie evidence of the facts contained therein. Nothing contained in this subdivision shall be deemed to require the signature of a notary public on such certificate. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall include an image of the motor vehicle alleged to be in violation and the information [~~and~~] or data generated in conjunction therewith and shall be available for inspection reasonably in advance of and at any proceeding to adjudicate the liability for such violation pursuant to this section.

(e) An owner liable for a violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York pursuant to a weigh in motion demonstration program established pursuant to this section shall be liable for monetary penalties in accordance with separate schedules of fines and penalties to be promulgated by the parking violations bureau of the city of New York for a violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight. The liability of the owner pursuant to this section shall not exceed one

thousand dollars for each violation; provided, however, that such parking violations bureau may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.

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

(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight pursuant to this section, within fourteen business days if such owner is a resident of this state and within forty-five business days if such owner is a non-resident**, unless the vehicle's license plate is obstructed, concealed, or distorted in which case a notice of liability shall be sent within forty-five business days**. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight pursuant to this section, [~~the United States department of transportation number of the vehicle involved in such violation,~~] the registration number of the vehicle involved in such violation, the gross vehicle weight and/or axle weight measured, the location where such violation took place, the date and time of such violation, the identification number of the weigh in motion violation monitoring system which recorded the violation or other document locator number, one or more date and time stamped images identifying the motor vehicle and the information and data evidencing the alleged violation, and the certificate charging the liability.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which they may contest the liability alleged in the notice. Such notice of liability shall also contain a prominent warning to advise the person 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 the city of New York, or by any other entity authorized by the city to prepare and mail such notice of liability.

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

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle or the number plate or plates of such 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 section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight pursuant to this section that the vehicle or the number plate or plates of such 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 or number plate or plates of such vehicle be sent by first class mail to the New York city parking violations bureau.

(j) 1. 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 section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight pursuant to this section, provided that:

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

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

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

3. Where the lessor complies with the provisions of paragraph one 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 such violation 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 section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight 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 operated such vehicle in violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator operated such vehicle in violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight.

(m) If the city adopts a demonstration program pursuant to subdivision (a) of this section it shall conduct a study and submit an annual report on the results of the use of weigh in motion violation monitoring systems to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand twenty-two and on the same date in each succeeding year in which the demonstration program is operable. Such city shall also post such annual report on the New York city department of transportation website. Such report shall include:

1. the locations where and dates when weigh in motion violation monitoring systems were used;

2. the total number of trucks weighed and the total number of violations recorded by weigh in motion violation monitoring systems in accordance with this section in the aggregate on a daily, weekly, and monthly basis;

3. the total number of violations recorded by weigh in motion violation monitoring systems disaggregated by the number of violations that were [~~either~~] ten percent or more above the gross vehicle weight [~~or~~] limit, the number of violations that were twenty percent or more above the axle weight limit, and the number of recorded violations that violated both such limits;

4. the total number of notices of liability issued for violations recorded by such weigh in motion systems;

5. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by weigh in motion systems;

6. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by weigh in motion systems;

7. the total amount of revenue realized by the city of New York in connection with the program;

8. the expenses incurred by the city of New York in connection with the program;

9. the quality of the adjudication process and its results; and

10. the total capital amount spent on repair or reconstruction of interstate route 278 in Kings county [~~and the total capital amount spent on repair or reconstruction of interstate route 278 specifically from the vicinity of Atlantic avenue to the vicinity of Sands street in Kings county~~].

(n) It shall be [~~a~~] an affirmative defense to any prosecution for a violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight pursuant to this section that such weigh in motion violation monitoring system was malfunctioning at the time of the alleged violation; or where the operator of such vehicle has been convicted of the underlying violation of section three hundred eighty-five of this article and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight; or operated such vehicle in accordance with the terms and conditions of any overweight permit issued in accordance with this chapter and any rules and regulations promulgated thereto.

§ 2. The opening paragraph of section 16 of chapter 773 of the laws of 2021, amending the vehicle and traffic law and the public officers law relating to establishing a demonstration program on interstate route 278 in Kings county to enforce vehicle weight restriction on such interstate

by means of mobile or stationary weigh in motion systems, is amended to read as follows:

This act shall take effect immediately; provided, however, that sections twelve, thirteen, fourteen and fifteen shall expire and be deemed repealed December 1, [~~2025~~] 2030 when upon such date the provisions of such sections shall be deemed repealed; and provided further, that notwithstanding the expiration and repeal of sections twelve, thirteen, fourteen and fifteen of this act, any notices of liability issued pursuant to the demonstration program authorized pursuant to section 385-a of the vehicle and traffic law, as added by section twelve of this act, prior to the expiration date of this act may be adjudicated after such expiration date; and provided further, that:

§ 3. This act shall take effect immediately; provided, however, that the amendments to section 385-a of the vehicle and traffic law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.