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:

Section 1. The vehicle and traffic law is amended by adding a new section 385-b to read as follows:

§ 385-b. Owner liability for failure of operator to comply with weight restrictions on a covered agency and authority's facilities. 1. (a) Notwithstanding any other provision of law, a covered agency or authority may establish a weigh-in-motion program on its facilities 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 facilities in accordance with the provisions of this section. Such program shall empower the covered agency or authority to install and operate weigh-in-motion violation monitoring systems on its facilities. Such systems may be activated at locations on such portion of its facilities as determined by the covered agency or authority. A covered agency or authority may enter into a memorandum of agreement with another covered agency or authority for the purposes of coordinating the planning, design, installation, operation, construction and maintenance of such weigh-in-motion program. Such memorandum shall address, for purposes of such program, the use of systems, devices and other facilities owned and operated by the other covered agency or authority.

(b) 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 an annual

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

LBD10482-01-5

calibration check performed pursuant to paragraph (c) 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 covered agency or authority 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 information and data generated in conjunction therewith, produced by such system.

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

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

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

(f) (i) No photograph, microphotograph, videotape or other recorded image, nor any information and 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. Notwithstanding the above, all information and data from weigh-in-motion violation monitoring systems may be shared among covered agencies and authorities for the purposes of monitoring impacts to a covered agency or authority's facilities and for reporting purposes.

(ii) Such 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 covered agency or authority 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 information and data generated in conjunction therewith, produced by a weigh-in-motion violation monitoring system shall be for the exclusive use of the covered agency or authority, or by use of another covered agency or authority adjudicating on behalf of a covered agency, 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 covered agency or authority to study the impact of overweight vehicles on its facilities and management of such facilities, and shall be destroyed by the covered agency or authority, or another covered agency or authority where applicable, upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images and information and 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 information and 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 information and 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 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 covered agency or authority shall install signage in advance of 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 covered agency or authority shall use oversight procedures to ensure compliance with the aforementioned privacy protection measures.

2. If the covered agency or authority establishes a program pursuant to subdivision one 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 the covered agency's or authority's facilities in violation of section three hundred eighty-five of this article and the rules and regulations of the covered agency or authority in relation to gross vehicle weight and/or axle weight, where such vehicle was traveling ten percent or more above the gross vehicle weight or twenty percent or more above the axle weight 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 and regulations of the covered agency or authority 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.

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

(a) "covered agency or authority" shall mean: (i) the department of transportation established pursuant to article two of the transportation law; (ii) the Triborough bridge and tunnel authority established pursuant to title three of article three of the public authorities law; (iii) the state bridge authority established pursuant to title two of article three of the public authorities law; (iv) the port authority of New York and New Jersey established pursuant to chapter one hundred fifty-four of the laws of nineteen hundred twenty-one; (v) the New York city department of transportation; and (vi) the New York state thruway authority established pursuant to title nine of article two of the public authorities law;

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

(c) "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 and regulations of the covered agency or authority in relation to gross vehicle weight and/or axle weight, in accordance with the provisions of this section;

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

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

(f) "rules and regulations of a covered agency or authority" shall mean rules and regulations of an agency or authority described in paragraph a of this subdivision.

4. A certificate, sworn to or affirmed by a technician employed by a covered agency or authority or its agent, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images, and information and 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 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.

5. An owner liable for a violation of section three hundred eighty-five of this article and the rules and regulations of a covered agency or authority pursuant to a weigh-in-motion 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 a covered agency or authority for a violation of section three hundred eighty-five of this article and the rules and regulations of a covered agency or authority in relation to gross vehicle weight and/or axle weight. The liability of the owner pursuant to this section shall not exceed three thousand seven hundred fifty dollars for each violation or as otherwise provided for in section three hundred eighty-five of this article, whichever is higher.

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

7. (a) 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 and regulations of a covered agency or authority 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. 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.

(b) 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 and regulations of a covered agency or authority in relation to gross vehicle weight and/or axle weight pursuant to this section, 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.

(c) 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.

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

8. Adjudication of the liability imposed upon owners pursuant to this section shall be by the covered agency or authority, or by any other government entity authorized by the covered agency or authority to adjudicate such liability. If such entity is the New York city parking violations bureau, such liability imposed pursuant to this section may only occur within the city of New York.

9. 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 and regulations of the covered agency or authority 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 covered agency or authority.

10. (a) An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of section three hundred eighty-five of this article and the rules and regulations of the covered agency or authority 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 the rental, lease or other contract document with the name and address of the lessee with the covered agency or authority in accordance with the provisions of subdivision ten of section twenty-nine hundred eighty-five of the public authorities law or section two hundred thirty-nine of this chapter, as applicable; and

(ii) within thirty-seven days after receiving notice from the covered agency or authority 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 covered agency or authority 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 the covered agency or authority pursuant to regulations that may be promulgated for such purpose.

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

(c) Where the lessor complies with the provisions of paragraph (a) 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 seven of this section.

11. (a) If the owner liable for a violation of section three hundred eighty-five of this article and the rules and regulations of the covered agency or authority 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.

(b) 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 and regulations of the covered agency or authority 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 and regulations of the covered agency or authority in relation to gross vehicle weight and/or axle weight.

12. 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 and regulations of the covered agency or authority in relation to gross vehicle weight and/or axle weight.

13. It shall be a defense to any prosecution for a violation of section three hundred eighty-five of this article and the rules and regulations of the covered agency or authority 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.

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

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

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

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

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

§ 5. This act shall take effect immediately.