STATE OF NEW YORK

7625

2025-2026 Regular Sessions

IN SENATE

April 23, 2025

Introduced by Sen. HARCKHAM -- 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 establishing a speed zone camera demonstration program in the village of Mount Kisco; and providing for the repeal of such provisions upon expiration thereof

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 1180-h to read as follows:

§ 1180-h. Owner liability for failure of operator to comply with certain posted maximum speed limits. (a) 1. Notwithstanding any other provision of law, the village of Mount Kisco is hereby authorized to establish a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with posted maximum speed limits in a speed zone within such village. Such demonstration program shall empower the village of Mount Kisco to install photo speed violation monitoring systems within no more than eight speed zones within such village at any one time. In selecting a speed zone in which to install and operate a photo speed violation monitoring system, the village shall consider criteria including, but not limited to, the speed data, crash history, and the roadway geometry applicable to such speed zone.

2. No photo speed violation monitoring system shall be used in a speed zone unless (i) on the day it is to be used it has successfully passed a self-test of its functions; and (ii) it has undergone an annual calibration check performed pursuant to paragraph four of this subdivision. The village shall install signs giving notice that a photo speed violation monitoring system is in use to be mounted on advance warning signs notifying motor vehicle operators of such upcoming speed zone

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

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and/or on speed limit signs applicable within such speed zone, in conformance with standards established in the MUTCD.

3. Operators of photo speed violation monitoring systems shall have completed training in the procedures for setting up, testing, and operating such systems. Each such operator shall complete and sign a daily set-up log for each such system that they operate that (i) states the date and time when, and the location where, the system was set up that day, and (ii) states that such operator successfully performed, and the system passed, the self-tests of such system before producing a recorded image that day. The village shall retain each such daily log until the later of the date on which the photo speed violation monitoring 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, videotape or other recorded images produced by such system.

4. Each photo speed violation monitoring system shall undergo an annual calibration check performed by an independent calibration laboratory which shall issue a signed certificate of calibration. The village shall keep each such annual certificate of calibration on file until the final resolution of all cases involving a notice of liability issued during such year which were based on photographs, microphotographs, videotape or other recorded images produced by such photo speed violation monitoring system.

5. (i) Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs, microphotographs, videotape or other recorded images produced by such photo speed 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 village shows that it made reasonable efforts to comply with the provisions of this paragraph in such case.

(ii) Photographs, microphotographs, videotape or any other recorded image from a photo speed violation monitoring system shall be for the exclusive use of the village 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 shall be destroyed by the village upon the final resolution of the notice of liability to which such photographs, microphotographs, videotape or other recorded images 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 from a photo speed 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 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, microphoto-

graphs, videotape or other recorded images 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.

(b) If the village of Mount Kisco 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, within a speed zone in violation of subdivision (c) of section eleven hundred eighty of this article or during the times authorized pursuant to subdivision (a) of this section, in violation of subdivision (b), (d), (f) or (g) of such section eleven hundred eighty, such vehicle was traveling at a speed of more than ten miles per hour above the posted speed limit in effect within such speed zone, and such violation is evidenced by information obtained from a photo speed 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article.

(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; and

3. "photo speed violation monitoring system" shall mean a vehicle sensor installed to work in conjunction with a speed measuring device which automatically produces 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 a speed zone in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article in accordance with the provisions of this section.

(d) A certificate, sworn to or affirmed by a technician employed by the village of Mount Kisco, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo speed violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall include at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to a demonstration program established pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be promulgated by the Westchester county department of public safety in conjunction with the village court. The liability of the owner pursuant to this section shall not exceed fifty dollars for a first violation, seventy-five dollars for a second violation within an eighteen-month period, and one hundred dollars for a third and subsequent violations within an eighteen-month period; provided, however, that such department of public safety in conjunction with the village court 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 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article 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.

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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, the identification number of the camera which recorded the violation or other document locator number, at least two date and time stamped images of the rear of the motor vehicle that include the same stationary object near the motor vehicle, 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 such person 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 village of Mount Kisco, or by any other entity authorized by the village to prepare and mail such notice of liability.

(h) Adjudication of the liability imposed upon owners of this section shall be by the Westchester county department of public safety in conjunction with the village court.

(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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article 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 village of Mount Kisco Westchester county department of public safety in conjunction with the village court or by any other entity authorized by the village to prepare and mail such notice of liability.

(j) Adjudication of the liability imposed upon owners of this section shall be by the Westchester county department of public safety in conjunction with the village court.

(k) 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section, provided that:

(i) prior to the violation, the lessor has filed with such department of public safety in conjunction with the village court 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 pursu-

ant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(l) 1. If the owner liable for a violation of subdivision (c) or (d) of section eleven hundred eighty of this article 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article. 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 subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article.

(m) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (c) or (d) of section eleven hundred eighty of this article.

(n) If the village 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 photo devices to the governor, the temporary president of the senate and the speaker of the assembly on or before the first day of June next succeeding the effective date of this section and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include:

1. the locations where and dates when photo speed violation monitoring systems were used;

2. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within all speed zones within the village, to the extent the information is maintained by the department of motor vehicles of this state;

3. the aggregate number, type and severity of crashes, fatalities, injuries and property damage reported within speed zones where photo speed violation monitoring systems were used, to the extent the information is maintained by the department of motor vehicles of this state;

4. the number of violations recorded within all speed zones within the village, in the aggregate on a daily, weekly and monthly basis;

5. the number of violations recorded within each speed zone where a photo speed violation monitoring system is used, in the aggregate on a daily, weekly and monthly basis;

6. the number of violations recorded within all speed zones within the village that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

7. the number of violations recorded within each speed zone where a photo speed violation monitoring system is used that were:

(i) more than ten but not more than twenty miles per hour over the posted speed limit;

(ii) more than twenty but not more than thirty miles per hour over the posted speed limit;

(iii) more than thirty but not more than forty miles per hour over the posted speed limit; and

(iv) more than forty miles per hour over the posted speed limit;

8. the total number of notices of liability issued for violations recorded by such systems;

9. the number of fines and total amount of fines paid after the first notice of liability issued for violations recorded by such systems;

10. the number of violations adjudicated and the results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

11. the total amount of revenue realized by the village in connection with the program;

12. the expenses incurred by the village in connection with the program; and

13. the quality of the adjudication process and its results.

(o) It shall be a defense to any prosecution for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this article pursuant to this section that such photo speed 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 prepared under the authority of section eleven hundred eighty-h of the vehicle and traffic law.

§ 3. The purchase or lease of equipment for a demonstration program established pursuant to section 1180-h of the vehicle and traffic law, as added by section one of this act, shall be subject to the provisions of section 103 of the general municipal law.

§ 4. This act shall take effect on the thirtieth day after it shall have become a law and shall expire December 31, 2030, when upon such date the provisions of this act shall be deemed repealed. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.