*** § 385-a. Owner liability for failure of operator to comply with weight restrictions.** (a) 1. (i) Notwithstanding any other provision of law, the city of New York is hereby authorized to establish a weigh in motion demonstration program on the covered locations set forth in subparagraph (ii) of this paragraph 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 covered locations 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, and up to two weigh in motion violation monitoring systems at any one time on each of the other covered locations set forth in such subparagraph. Such systems may be stationary or mobile and may be activated at locations on such portion of such interstate and on the other such covered locations as determined by the New York city department of transportation. The New York state department of transportation, covered agencies, and covered authorities may enter into a memorandum of understanding with the New York 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, covered agencies, and covered authorities.

(ii) Covered locations subject to a demonstration program established by the city of New York pursuant to this section shall mean interstate route 278 in Kings county; the Greenpoint Avenue bridge over Newtown Creek; the Metropolitan Avenue bridge over Newtown Creek; the Hamilton Avenue bridge over the Gowanus Canal; the Williamsburg bridge over the East River; the Ed Koch Queensboro bridge (state route 25) over the East River; the Third Avenue bridge over the Harlem River; the Manhattan bridge over the East River; and that portion of the Long Island Expressway (interstate route 495) over Woodhaven Boulevard.

1-a. (i) Notwithstanding any other provision of law, after holding a public hearing in accordance with the public officers law and subsequent approval of the establishment of a demonstration program in accordance

with this section by a majority of the members of the entire board of the triborough bridge and tunnel authority, the chair of the triborough bridge and tunnel authority is hereby authorized to establish a weigh in motion demonstration program on the covered location set forth in subparagraph (ii) of this paragraph 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 covered location in accordance with the provisions of this section. Such demonstration program shall empower the chair of the triborough bridge and tunnel authority to install and operate up to two weigh in motion violation monitoring systems at any one time on such covered location. Such systems may be stationary or mobile and may be activated at locations on such covered location as determined by such chair. Covered agencies and covered authorities may enter into a memorandum of understanding with the triborough bridge and tunnel authority 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 such other covered agencies and covered authorities.

(ii) The covered location subject to a demonstration program established by the chair of the triborough bridge and tunnel authority pursuant to this section shall mean the Robert F. Kennedy bridge.

1-b. (i) Notwithstanding any other provision of law, after holding a public hearing in accordance with the public officers law and subsequent approval of the establishment of a demonstration program in accordance with this section by a majority of the members of the entire board of the bridge authority, the chair of the bridge authority is hereby authorized to establish a weigh in motion demonstration program on the covered locations set forth in subparagraph (ii) of this paragraph 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 covered locations in accordance with the provisions of this section. Such demonstration program shall empower the chair of the bridge authority to install and operate up to two weigh in motion

violation monitoring systems at any one time on each such covered location. Such systems may be stationary or mobile and may be activated at locations on such covered locations as determined by such chair. Covered agencies and covered authorities may enter into a memorandum of understanding with the bridge authority 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 such other covered agencies and covered authorities.

(ii) Covered locations subject to a demonstration program established by the chair of the bridge authority pursuant to this section shall mean the Bear Mountain bridge, the Newburgh Beacon bridge and the Mid-Hudson bridge.

1-c. (i) Notwithstanding any other provision of law, after holding a public hearing in accordance with the public officers law and subsequent approval of the establishment of a demonstration program in accordance with this section by a majority of the members of the entire board of the port authority of New York and New Jersey, the chair of the port authority of New York and New Jersey is hereby authorized to establish a weigh in motion demonstration program on the covered location set forth in subparagraph (ii) of this paragraph 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 covered location in accordance with the provisions of this section. Such demonstration program shall empower the chair of the port authority of New York and New Jersey to install and operate up to two weigh in motion violation monitoring systems at any one time on such covered location. Such systems may be stationary or mobile and may be activated at locations on such covered location as determined by such chair. Covered agencies and covered authorities may enter into a memorandum of understanding with the port authority of New York and New Jersey 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 such other covered agencies and covered authorities.

(ii) The covered location subject to a demonstration program established by the chair of the port authority of New York and New Jersey pursuant to this section shall mean the George Washington bridge.

1-d. (i) Notwithstanding any other provision of law, after holding a public hearing in accordance with the public officers law and subsequent approval of the establishment of a demonstration program in accordance with this section by a majority of the members of the entire board of the thruway authority, the chair of the thruway authority is hereby authorized to establish a weigh in motion demonstration program on the covered location set forth in subparagraph (ii) of this paragraph 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 covered location in accordance with the provisions of this section. Such demonstration program shall empower the chair of the thruway authority to install and operate up to two weigh in motion violation monitoring systems at any one time on such covered location. Such systems may be stationary or mobile and may be activated at locations on such covered location as determined by such chair.

(ii) The covered location subject to a demonstration program established by the chair of the thruway authority pursuant to this section shall mean a location on the thruway at thruway interchange 34-A east of the city of Syracuse.

1-e. A covered location as defined by this subdivision consisting of a bridge shall include a distance not to exceed two thousand six hundred forty feet along the length of the existing highway between the bridge head of the respective bridge, in either direction, and the nearest paved level surface of such highway where a weigh in motion violation monitoring system can be installed in accordance with an engineering analysis, except for the west end of the Mid-Hudson Bridge where such distance shall not exceed five thousand two hundred eighty feet.

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. Each covered agency and covered 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.

3. Each weigh in motion violation monitoring system shall undergo a calibration check every six months in accordance with specifications prescribed pursuant to a memorandum of agreement between the applicable covered agency or covered authority and the New York state department of agriculture and markets, or in accordance with an applicable reference standard as determined by the applicable covered agency or covered 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 applicable covered agency or covered authority. Nothing contained in this paragraph shall be deemed to require the signature of a notary public on such certificate. Covered agencies and covered authorities shall retain each such bi-annual certificate of calibration on file until the final resolution of all cases involving notices of liability issued during such six-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.

4. Each covered agency and covered authority shall establish a range, according to the manufacturer's standards and its monitoring of the system, for evaluating information and data collected from sensor readings of each weigh in motion violation monitoring system of such covered agency and covered authority. Each such system shall be set to automatically alert such covered agency or covered authority 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 covered agency or covered authority 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.

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 covered locations.

6. (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.

(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 applicable covered agency or covered 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 applicable covered agency or covered authority 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 covered authority to study the impact of overweight vehicles on its covered locations and management of such covered locations, and shall be

destroyed by the applicable covered agency or covered authority 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 applicable covered agency or covered authority shall install signs in advance of entry points to each of its covered locations giving notice to approaching motor vehicle operators that weigh in motion violation monitoring systems are in use to enforce motor vehicle weight restrictions.

(v) Each covered agency and covered authority shall use oversight procedures to ensure compliance with the aforementioned privacy protection measures.

(b) If a covered agency or covered authority 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 a covered location in violation of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered 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 of the applicable covered agency or covered 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.

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

1. "bridge authority" shall mean the New York state bridge authority created pursuant to section five hundred twenty-seven of the public authorities law;

2. "chair" shall mean the chair of the thruway authority, the chair of the bridge authority, the chair of the port authority of New York and New Jersey, or the president of the triborough bridge and tunnel authority, as applicable;

3. "covered agency" shall mean the city of New York;

4. "covered authority" shall mean the bridge authority, the thruway authority, the triborough bridge and tunnel authority, and the port authority of New York and New Jersey;

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

6. "port authority of New York and New Jersey" shall mean that body corporate and politic created pursuant to article three of chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, and designated as "The Port Authority of New York and New Jersey" by such chapter;

7. "thruway authority" shall mean the New York state thruway authority, a body corporate and politic constituting a public corporation created and constituted pursuant to title nine of article two of the public authorities law;

8. "triborough bridge and tunnel authority" shall mean the corporation organized pursuant to section five hundred fifty-two of the public authorities law;

9. "thruway" shall mean generally a divided highway under the jurisdiction of the thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections;

10. "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 applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight, in accordance with the provisions of this section;

11. "weigh in motion demonstration program" shall mean the demonstration program authorized by this section that operates exclusively on covered locations;

12. "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; and

13. "Rules of the applicable covered agency or covered authority" shall mean rules and regulations in relation to gross vehicle weight

and/or axle weight of the following, as applicable: the New York city department of transportation adopted pursuant to section sixteen hundred forty-two of this chapter; the thruway authority adopted pursuant to sections three hundred eighty-five and sixteen hundred thirty of this chapter; the triborough bridge and tunnel authority and the bridge authority adopted pursuant to section sixteen hundred thirty of this chapter; and the port authority of New York and New Jersey adopted pursuant to article six of chapter one hundred fifty-four of the laws of nineteen hundred twenty-one and chapter forty-three of the laws of nineteen hundred twenty-two.

(d) A certificate, sworn to or affirmed by a technician employed by the applicable covered agency or covered authority, 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.

(e) An owner liable for a violation of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight pursuant to a weigh in motion demonstration program established pursuant to this section shall be liable for monetary penalties not to exceed one thousand two hundred dollars for each violation; provided, however, that an additional penalty not in excess of twenty-five dollars for each violation may be imposed 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 applicable covered agency or covered 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.

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 applicable covered agency or covered authority 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 applicable covered agency or covered authority, or by any other entity

authorized by the applicable covered agency or covered authority to prepare and mail such notice of liability.

(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law where the violation occurred or, if there be none, by the court having jurisdiction over traffic infractions where the violation occurred, except that if a city has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations such city may, by local law, authorize such adjudication by such tribunal. Provided, however, that a notice of liability imposed upon owners by this section where the violation occurred on a covered location located within a city with a population of one million or more shall be adjudicated 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 applicable covered agency or covered 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 applicable covered agency or covered authority, or the traffic violations bureau, court having jurisdiction or parking violations bureau. Nothing contained in this subdivision shall be deemed to prohibit an owner which submits a police report pursuant to this subdivision to the applicable covered agency or covered authority from later submitting such report to the traffic violations bureau, court having jurisdiction or parking violations bureau as provided by this subdivision.

(j) 1. Where the adjudication of liability imposed upon owners

pursuant to this section is by a traffic violations bureau or a court having jurisdiction, 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 applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight pursuant to this section, provided that such owner sends to the applicable covered agency or covered authority, or to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, 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 the violation of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section. Nothing contained in this paragraph shall be deemed to prohibit a lessor which submits information pursuant to this paragraph to the applicable covered agency or covered authority from later submitting such information to the traffic violations bureau or court having jurisdiction as provided by this paragraph.

2. In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau and in a city with a population of one million or more, 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 applicable covered agency or covered 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 with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(ii) (A) 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; or

(B) no later than the time period prescribed by clause (A) of this subparagraph, the lessor submits to the applicable covered agency or covered authority a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible. Nothing contained in this clause shall be deemed to prohibit a lessor which submits information pursuant to this clause to the applicable covered agency or covered authority from later submitting such information to the bureau as provided by clause (A) of this subparagraph.

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

4. Where the lessor complies with the provisions of paragraph two 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 applicable covered agency or covered 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.

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

(m) If a covered agency or covered authority adopts a demonstration program pursuant to subdivision (a) of this section it shall conduct a study and submit a 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-six and on the same date every two years thereafter in which the demonstration program is operable. Such covered agency or covered authority shall also post such annual report on its 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 that were either ten percent or more above the gross vehicle weight or twenty percent or more above the axle weight;

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 applicable covered agency or covered authority in connection with the program;

8. the expenses incurred by the applicable covered agency or covered authority in connection with the program;

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

10. the total capital amount spent on repair, reconstruction, and/or maintenance on each applicable covered location, including, for the city of New York, 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 defense to any prosecution for a violation of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered 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.

(o) It shall be a defense to any prosecution for a violation of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight pursuant to this section that:

1. the operator of the motor vehicle alleged to be in violation 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; or

2. the owner of the motor vehicle alleged to be in violation has received notices of liability for no less than two other violations of section three hundred eighty-five of this article and the rules of the applicable covered agency or covered authority in relation to gross vehicle weight and/or axle weight pursuant to this section for the same motor vehicle occurring within the same twenty-four hour period as such violation, and has been found liable for such other violations and paid all applicable fines and penalties for such other violations.

* NB Repealed December 1, 2030